



Federal Election Commission  
Washington, DC 20463

November 1, 2004

Martin Olivares, Treasurer  
David Brigham for Congress  
PO Box 220932  
El Paso, TX 79913

Re: ADR 177  
David Brigham for Congress and Martin Olivares, Treasurer

Dear Mr. Olivares:

Enclosed is the signed copy of the agreement resolving the complaint filed on March 8, 2004 with the Federal Election Commission ("FEC/Commission") against David Brigham for Congress and Martin Olivares, Treasurer ("Respondents"). The agreement for ADR 177 (MUR 5425) was approved by the Commission on October 27, 2004 – the effective date of the agreement.

Note that paragraph 11 of the agreement specifies that Respondents shall comply with the terms of this settlement within thirty (30) days of the effective date of the agreement. Please forward to this office, a statement confirming Respondents' compliance with the terms listed in paragraph 8 of the aforementioned agreement. The letter should note the dates on which Respondents satisfied each of the terms listed in paragraph 11.

As you are aware, the settlement agreement will be made part of the record that is released to the public. The Commission will also place on the record copies of the complaint/referral, correspondence exchanged between your office and this office prior to our entry into settlement negotiations and reports prepared for the Commission by this office to assist in its consideration of this matter. The Commission is obliged by Federal statute to place on the public record documents in closed enforcement and alternative dispute resolution cases; accordingly, copies of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

This agreement resolves the matter that was brought to the attention of the FEC by Carlos R. ("Bobby") Ortiz regarding an alleged violation of the federal election

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campaign laws. I appreciate your assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

Sincerely,

Lynn M. Fraser, Assistant Director  
Alternative Dispute Resolution Office  
202-694-1665

Enclosure: Agreement

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**Federal Election Commission  
Washington, DC 20463**

Case Number: ADR 177  
Source: MUR 5425  
Case Name: David Brigham for Congress  
and Martin Olivarez, Treasurer

### **NEGOTIATED SETTLEMENT**

This matter was initiated by a signed, sworn and notarized complaint filed by Carlos R. Ortiz. Following review of the matter, and in an effort to promote compliance with the Federal Election Campaign Act of 1971, as amended, ("FECA") and resolve this matter, the Federal Election Commission ("Commission") entered into negotiations with Martin Olivarez, representing David Brigham for Congress and Martin Olivarez, Treasurer ("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 Respondents addressed the issues raised in this complaint. The parties agree to resolve the matter according to the following terms:

1. The Commission entered into this agreement as part of its responsibility for administering the FECA, and in an effort to promote compliance on the part of Respondents. The Commission's use of alternative dispute resolution procedures ("ADR") 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 voluntarily enter into this agreement with the Commission.
3. Complainant alleges that Respondents failed to report any campaign disbursements on the Pre-Primary Report filed with the Commission for the period of December 12, 2003 through February 18, 2004. Complainant states that Respondents spent funds for large campaign signs, lapel stickers, push cards, television advertisement production costs, newspaper advertisements, and supplies for various events during this time period. Complainant further alleges that Respondents may have violated the 48 Hour reporting notice on contributions over \$1,000 received during the period February 19, 2004 through March 6, 2004.
4. The principal campaign committee of a candidate for federal office shall notify the Commission in writing of any contribution of \$1,000 or more received after the 20<sup>th</sup> day, but more than 48 hours before, any election. This notification shall be

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made within 48 hours after receipt of such contribution and shall include the name of the candidate, the office sought, the identification of the contributor, the date of receipt and amount of the contribution. 2 U.S.C. § 434(a)(6)(A), 11 C.F.R. §104.5(f). Each report required to be filed by an authorized committee of a candidate for Federal office pursuant to the FECA, shall disclose, for the reporting period and election cycle, the total amount of all receipts, and the total amount of all contributions from the candidate. 2 U.S.C. § 434(b)(2)(B), 11 C.F.R. 104.3(a)(3)(ii). The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i), 11 C.F.R. § 100.52(a). A loan is a contribution at the time it is made and is a contribution to the extent that it remains unpaid. 11 C.F.R. § 100.52(b)(2).

5. The principal campaign committee shall also notify the Commission of any expenditure from personal funds. The term "expenditure from personal funds" means an expenditure made by a candidate using personal funds, and a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee. 2 U.S.C. § 434(a)(6)(B)(i)(I)-(II). Any candidate who receives any contribution, obtains any loan, or makes any disbursement, in connection with his or her campaign shall be considered as having been acting as an agent of his or her campaign. 11 C.F.R. § 101.2.
6. An account shall be kept of all disbursements made by or on behalf of the political committee and shall include the name and address of every person to whom any disbursement is made, as well as the date, amount and purpose of the disbursement. 11 C.F.R. § 102.9(b)(1)(I)-(ii). In addition to the account to be kept under the previous subsection of these regulations, a receipt or invoice from the payee or a cancelled check to the payee shall be obtained and kept for each disbursement in excess of \$200 by or on behalf of, the committee, except that credit card transaction documentation shall include a monthly billing statement or customer receipt for each transaction and the cancelled check used to pay the credit card account. For purposes of this section, payee means the person who provides the goods or services to the committee or agent thereof in return for payment. 11 C.F.R. § 102.9(b)(2).
7. Respondents acknowledge that inadvertent violations of the FECA occurred at the beginning of the campaign. The violations occurred due to a misunderstanding of the reporting requirements for disbursements under the FECA.
8. Respondents, in an effort to avoid similar errors in the future, agree to (a) appoint an FECA compliance person; (b) amend all reports to accurately reflect the disbursements made by the candidate between December 12, 2003 and February 18, 2004; (c) circulate a memorandum to all committee staff and volunteers about

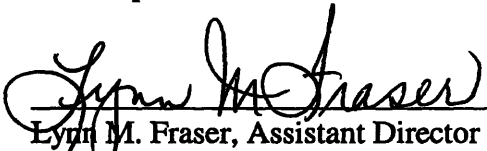
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receipts and the information the Treasurer requires for disclosure purposes; and  
(d) pay a civil penalty of \$1,000.

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 Respondents fail to comply with the terms of this settlement, the Commission may submit any unpaid civil penalty to the U.S. Treasury for collection or undertake civil action in the U.S. District Court for the District of Columbia to secure compliance.
11. This agreement shall become effective on the date signed by all parties and approved by the Commission. Respondent shall comply with the terms of the settlement within thirty (30) days from the effective date of this agreement.
12. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 177 (MUR 5425), 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

By:   
Lynn M. Fraser, Assistant Director  
Alternative Dispute Resolution Office

10/27/04  
Date Signed

FOR THE RESPONDENTS:

  
Martin Olivarez, Treasurer  
Representing David Brigham for Congress and  
Martin Olivarez, Treasurer

10/14/04  
Date Signed