



**Federal Election Commission
Washington, DC 20463**

October 22, 2004

Robert A. Burka, Esq.
Foley & Lardner
3000 K Street NW, Suite 500
Washington, DC 20007

Re: ADR 179
Schneider for Congress and Harold Schneider, Treasurer

Dear Mr. Burka:

Enclosed is the signed copy of the agreement resolving the audit referral initiated on June 28, 2004 with the Federal Election Commission ("FEC/Commission") against Schneider for Congress and Harold Schneider, Treasurer ("Respondents"). The agreement for ADR 179 (AR 03-16) was approved by the Commission on October 20, 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 8.

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 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 initiated by the Commission pursuant to information ascertained in the normal course of carrying out its supervisory

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responsibilities regarding violations of federal election 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

24.19.025.4239



**Federal Election Commission
Washington, DC 20463**

Case Number: ADR 179
Source: AR 03-16
Case Name: Schneider for Congress

NEGOTIATED SETTLEMENT

This matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. 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 Robert A. Burka, Esq., representing Schneider for Congress and Harold Schneider, Treasurer ("the committee" or "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 referral. 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. An audit of Respondents' financial records for the 2002 election cycle showed that Respondents reported earmarked contributions received through a conduit that lacked or inadequately disclosed information required by the FECA. In addition, an audit of Respondents' reported expenditures, candidate loans, and debts and obligations identified a number of transactions that lacked or inadequately disclosed information required, such as the name and address of the payee, and the purpose of the disbursement.
4. The FECA requires each authorized committee for a candidate for federal office to identify each contributor whose contribution or contributions have an aggregate

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or value in excess of \$200 within the election cycle. The identification must include the date and the amount of the contribution(s). 2 U.S.C. § 434(b)(3), 11 C.F.R. § 104.3(a)(4). Federal regulations require that an authorized committee shall report each conduit or intermediary who forwards one or more earmarked contribution(s) which in the aggregate exceed \$200 in any calendar year. The report by the recipient authorized committee shall identify the conduit or intermediary, the date and total amount of earmarked contributions received from the conduit, as well as the identifying information for each earmarked contribution which in the aggregate exceeds \$200 in any calendar year. 11 C.F.R. § 110.6(c)(2).

5. The FECA also requires each authorized committee for a candidate for federal office to report the total amount and itemization of all disbursements made during an election cycle including operating expenditures, transfers to affiliated committees, repayment of loans, and contribution refunds or other offsets to contributions. 2 U.S.C. § 434(b)(4). The committee must disclose the name and address of each person to whom an expenditure in an aggregate amount or value in excess of \$200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount and purpose of such operating expenditure. 2 U.S.C. § 434(b)(5), 11 C.F.R. § 104.3(b)(4). The regulations define *purpose* as a brief statement or description of why the disbursement was made. 11 C.F.R. § 104.3(b)(4)(i)(A). In addition, the authorized committee must report the amount and nature of outstanding debts and obligations owed by or to such committee. 2 U.S.C. § 434(b)(8).
6. Respondents acknowledge that inadvertent violations of the FECA occurred due, in large part, to inexperience. Respondents contend the earmarked contributions were reported at the time they were received, but the report did not identify the contributions as having come through *MoveOn.org*, as Respondents did not believe it was a conduit under the FECA. Following a decision by the Commission, when considering an audit of Chellie Pingree for U.S. Senate, that *MoveOn.org* was a conduit, the Respondents filed amended reports reflecting those contributions as having come through a conduit.
7. Respondents also contend that all disbursements were disclosed, and even itemized, but they failed to provide complete information such as identification and address of original vendor on approximately one-third of the entries. The remainder of the entries had only partial information because Respondents did not know how to prepare a memo entry for each disbursement. Respondents tried to fulfill the requirement by adding a text message at the end of the report, but were limited by the amount of characters (text) allowed.
8. Respondents, in an effort to avoid similar errors in the future, enlisted the services of a financial manager experienced in electronic filing and had her attend an FEC

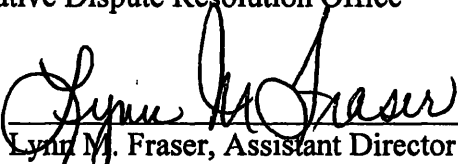
seminar. Respondents agree to: (a) maintain a campaign finance manual for the education of Respondents' staff; and (b) pay a civil penalty of \$1,500.

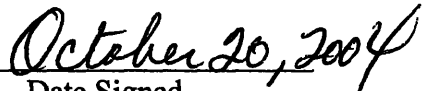
9. Respondents agree that all information provided to resolve this matter is true and accurate to the best of their knowledge and that they sign this agreement under penalty of perjury pursuant to 28 U.S.C. § 1746.
10. The parties agree that if Respondents fail to comply with the terms of this settlement, 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. Respondents 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 179 (AR 03-16), 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


Date Signed

FOR THE RESPONDENTS:


Robert A. Burka, Esq.
Counsel for Schneider for Congress
and Harold Schneider, Treasurer


Date Signed

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