



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Case Number: ADR 182
Source: MUR 5448
Case Name: US Cuba Democracy PAC

NEGOTIATED SETTLEMENT

This matter was initiated by a signed, sworn and notarized complaint filed by Melanie Sloan on behalf of Citizens for Responsibility and Ethics. 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 Mauricio Claver-Carone, Esq. on behalf of U.S. Cuba Democracy PAC and Gus Machado, 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 made an in-kind contribution to Martinez for Senate when it sponsored a luncheon on December 22, 2003 at which candidate Martinez was a speaker. Complainant argues, citing Respondents' April '04 Quarterly Report, that the Committee made an independent expenditure of \$5,106.79 on behalf of an unnamed candidate when it paid the Hotel that served as the locale for the subject luncheon. The complaint further contends that the luncheon was held in concert, cooperation or at the suggestion of candidate Martinez. The complaint also argues that the aforementioned alleged contribution was an excessive in-kind contribution given that Respondents had previously contributed \$2,000 to the Martinez for Senate committee.
4. Respondents, a recently registered non-connected political committee, contend that the subject luncheon was an inaugural event for the Committee designed to promote the organization and its agenda. Respondents contend that the violation resulted from an inadvertent reporting error due to listing the luncheon expenditure as an incurred debt and independent expenditure rather than an operating expense. After being advised of the error, Respondents filed on April 26, 2004 an amended report correctly identifying the debt as an operating expense.
5. Each treasurer of a political committee shall file reports of receipts and disbursements as required by the Act. 2 U.S.C. § 434(a)(1) and 11 C.F.R. § 104.1. Each report shall disclose for the reporting period and the calendar year the total amount of all disbursements including independent expenditures. 2 U.S.C. § 434(b)(4)(H)(iii) and 11 C.F.R. § 104.3(b)(1).

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6. Respondents acknowledge their unintended error in the subject report filed with the Commission. In order to resolve this matter and ensure consistent and accurate compliance with current regulations and any future changes in the same, Respondents agree to select and send two representatives from the Committee to attend, within the next fourteen months of the effective date of this agreement, an FEC seminar on 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 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.
9. This agreement will become effective on the date signed by all the parties and approved by the Commission.
10. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 182/MUR 5448 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.

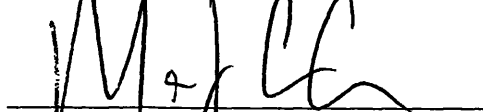
FOR THE COMMISSION:

Allan D. Silberman,
Director, Alternative Dispute Resolution Office


Allan D. Silberman

11/4/05
Date

FOR THE RESPONDENT:


Mauricio Claver-Carone, Esq.
for U.S. Cuba Democracy PAC

11/22/04
Date

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