



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

October 5, 2005

Mr. Richard Penberthy
Rick for Congress
P.O. Box 7279
Wesley Chapel, FL 33544

Re: ADR 237/MUR 5521

Dear Mr. Penberthy:

Enclosed is the signed copy of the agreement between the Federal Election Commission and the Rick for Congress Committee and Doreen Penberthy, Treasurer, resolving the matter that was initiated by a complaint that was against the Committee. The agreement, ADR 237/MUR 5521, was approved by the Federal Election Commission on September 30, 2005 -- the effective date of the agreement.

At the same time, the Commission determined after considering the circumstances of the matter to exercise its prosecutorial discretion and to take no action against the respondent Rick Penberthy. Accordingly, the Commission closed the file on this matter on September 30, 2005.

As you are aware, the settlement agreement will be made part of the record that is released to the public. In addition, as of January 1, 2004, the Commission also will place on the record copies of correspondence exchanged between your office and this office prior to our entry into settlement negotiations and reports prepared by this office to assist the Commission 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 effectively resolves the issues raised in the submission referenced above.

I appreciate your assistance in resolving this matter and helping to bring this case to a mutually satisfactory conclusion.

Sincerely,

A handwritten signature in black ink, appearing to read "Allan D. Silberman", is written over a horizontal line.

Allan D. Silberman,
Director, ADR Office

Enclosure: a/s

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999 E Street, N.W.
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Case Number: ADR 237
Source: MUR 5521
Case Name: Rick for Congress

NEGOTIATED SETTLEMENT

This matter was initiated by a signed, sworn and notarized complaint filed by Steven G. Hemmert. 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 Richard Penberthy on behalf of Rick for Congress and Doreen Penberthy, 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.

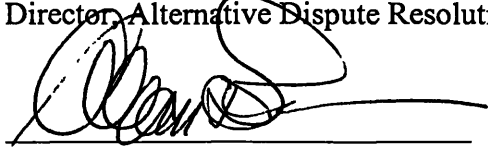
Negotiations between the Commission and Respondents have addressed all the issues raised in this matter. The parties have agreed to resolve the matter according to the following terms:

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 complainant alleged that Respondents failed to file timely the 2004 second quarter report due on July 15, 2004. In addition, the Complainant notes that the subject report was not filed electronically after they expended more than \$50,000. The Complainant further noted that Respondents hand-written report was received at the Commission on July 22, 2004.
4. Each treasurer of a principal campaign committee of a candidate for the House of Representatives or for the Senate must file quarterly reports on the dates specified. Quarterly reports must be filed no later than the 15th day following the close of the immediately preceding calendar quarter (on April 15, July 15, and October 15) except that the report for the final calendar quarter of the year must be filed no later than January 31 of the following calendar year. 2 U.S.C. § 434(a)(2)(A)(iii) and 11 C.F.R. §§ 104.5(a) and (a)(1)(i).

5. Political committees and other persons required to file reports with the Commission must file reports in an electronic format that meets the requirements of this section if the political committee or other person has received contributions or as reason to expect to receive contributions aggregating in excess of \$50,000 in any calendar year. 2 U.S.C. § 434(a)(11)(A)(i) and 11 C.F.R. §§ 104.18(a) and (a)(i).
6. Respondents mistakenly concluded that since the Committee's election cycle-to-date contributions totaled \$5,429.00 they were not required to file electronically. The Committee proceeded to file on July 15, 2004 a hand-written report for the quarter, covering the period from April 1 through June 30, 2004. Respondents stated that the Commission's notification, received on July 30, 2004, advised them that the Committee's total contributions, when incorporated with a loan of \$61,182 from the candidate, exceeded the \$50,000 threshold triggering a requirement for electronic filing.
7. Respondents acknowledged that they misunderstood the Commission's reporting requirements and believed they were in compliance with the FECA regulations when they filed the hand-written 2004 July Quarterly Report. In order to avoid similar errors in the future, Respondents agree to: 1) send a Committee representative to a FEC seminar on federal election campaign finance reporting requirements; and 2) pay a civil penalty of \$1,500.
8. 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.
9. 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 and/or forward any outstanding civil penalty to the US Treasury for collection.
10. 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 twelve months (12) months of the effective date of this agreement for item one (1) and within nine (9) months of the effective date of the agreement for item two (2) as listed in paragraph seven (7) above, payments to be made over the course of the aforementioned nine months.
11. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 237/MUR 5521 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

Oct 5, 2005

Date

FOR THE RESPONDENT:



Richard Penberthy on behalf of
Rick for Congress and
Doreen Penberthy, Treasurer

9/22/05

Date

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