



**Federal Election Commission
Washington, DC 20463**

October 5, 2005

James Lamb, Esq.
Ryan, Phillips, Utrecht & MacKinnon
1133 Connecticut Avenue N.W. Suite 300
Washington, DC 20006

Re: ADR 241
Kevin Kelley for Congress and Karen Potter White, Treasurer

Dear

Enclosed is the signed copy of the agreement resolving the referral made on February 5, 2005 by the Audit Division of the Federal Election Commission ("FEC/Commission") against Kevin Kelley for Congress and Karen Potter White, Treasurer ("Respondents"). The agreement for ADR 241 (AR 03-17) was approved by the Commission on September 30, 2005 -- the effective date of the agreement.

Note that paragraph 11 of the agreement specifies that Respondents shall comply with term (a) of this settlement within sixty (60) days of the effective date of the agreement, and term (b) within thirty (30) days. 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 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 initiated by the Commission pursuant to information ascertained in the normal course of carrying out its supervisory 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

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**Federal Election Commission
Washington, DC 20463**

Case Number: ADR 241
Source: AR 03-17
Case Name: Kevin Kelley 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 James Lamb, Esq., representing Kevin Kelley for Congress and Karen Potter White, 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. Following an audit of the Committee's 2002 election cycle financial activity, it was determined that a credit card held in the former candidate's spouse's name was used to make campaign related expenditures totaling \$59,812. These charges exceed the contribution limitation by \$57,812.
4. The section of the FECA in effect at the time of this violation prohibited an authorized committee from receiving more than \$1,000 per election from any one person. 2 U.S.C. §§ 441a(a)(1)(A), 441a(f) (2000), 11 C.F.R. 110.1(1)(b), 110.9(a) (2002). Candidates for Federal office may make unlimited expenditures from personal funds. 11 C.F.R. § 110.10(a) (2002). Personal funds of the candidate are defined under the regulations as any assets which,

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under applicable state law, at the time he or she became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had legal and rightful title or in which the candidate had an equitable interest. Personal funds of the candidate also includes salary and other earned income from bona fide employment, and dividends and proceeds from the sale of the candidate's stock or other investments. 11 C.F.R. § 110.10(b)(1)-(2) (2002).

5. When an individual uses his or her personal funds, including a personal credit card, to pay for goods or services used by or on behalf of a candidate or political committee, that payment is a contribution unless the payment falls under certain exceptions for travel. 11 C.F.R. § 116.5(b) (2002). An individual may voluntarily spend up to \$1,000 per candidate, per election, for unreimbursed travel expenses on behalf of the candidate without making a contribution. 11 C.F.R. § 100.7(b)(8) (2002). Payments for transportation expenses, including usual and normal subsistence expenses incurred while traveling on behalf of a candidate, that exceed the \$1,000 travel exemption are considered contributions unless the committee reimburses the expenses within sixty days of the closing date on the credit card billing statement where the charge first appeared, or within thirty days, if the payments were made with cash or check. 11 C.F.R. § 116.5(b) (2002).
6. A political committee shall treat the obligation arising from a payment described in paragraph 5 above as an outstanding debt until reimbursed. 11 C.F.R. § 116.5(c) (2002).
7. Respondents acknowledge that an inadvertent violation of the FECA occurred due to a misunderstanding as they thought the credit card was a joint personal account. The Committee advised it intended to reimburse expenses charged to the credit card, and the Audit staff confirmed that the credit card debt had been paid, albeit untimely. In addition, Respondents contend they filed all necessary amended reports, to accurately reflect the relevant financial activity.
8. Respondents, in an effort to avoid similar errors in the future, agree to: (a) work with Commission staff to terminate the Committee within sixty (60) days of the effective date of this agreement; and (b) pay a civil penalty of \$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.

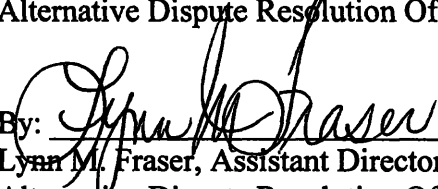
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Treasury for collection or undertake civil action in the U.S. District Court for the District of Columbia to secure compliance.

11. This agreement shall become effective on the date signed by all parties and approved by the Commission. Respondents shall comply with the term (a) of paragraph 8 above within sixty (60) days, and paragraph (b) of paragraph 8 above within thirty (30) days, of the effective date of the agreement.
12. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 241 (Audit 03-17), 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.

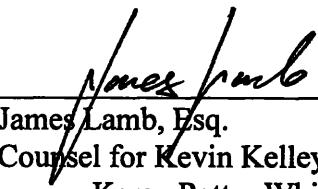
FOR THE COMMISSION:

Allan D. Silberman, Director
Alternative Dispute Resolution Office

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

9/30/05
Date Signed

FOR THE RESPONDENTS:


James Lamb, Esq.
Counsel for Kevin Kelley for Congress and
Karen Potter White, Treasurer

14 September 2005
Date Signed

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