FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	ADR 243/MUR 5516
Patlak for Congress and	)	
James S. Carven, Treasurer	)	

Statement of Reasons

Chairman Michael E. Toner
Vice Chairman Robert D. Lenhard
Commissioner Hans A. von Spakovsky
Commissioner Ellen L. Weintraub

On March 21, 2006, the Commission voted 4-2 to reject the settlement agreement with Patlak for Congress and James S. Carven, Treasurer, and close the file. We write this Statement to explain why we rejected the Alternative Dispute Resolution (ADR) Office's proposed agreement.

The Commission and the ADR Office believe that Respondents violated the Act by failing to file a July 2004 Quarterly Report after having apparently surpassed the $5,000 candidacy threshold. Respondents also failed to file any subsequent reports. The proposed negotiated settlement called for the Committee to file the missing reports, send a Committee representative to an FEC seminar, and pay a penalty of $3,000.

This case involved a small, first time candidate who lost the primary election. Respondents had voluntarily registered with the Commission before any obligation to file existed. Respondents did not file the 2004 April Quarterly Report because, according to their letter submitted at the time, Mr. Patlak had not surpassed the $5,000 candidacy threshold. *See* 2 U.S.C. § 434(a)(1) and 11 C.F.R. § 100.3(a). Patlak for Congress apparently surpassed the $5,000 threshold prior to the filing deadline for the July Quarterly report but never filed this first mandatory report. Respondents averred that they attempted to file electronically but could not get the software to work. After losing the election, Respondents failed to file any subsequent reports.

Failing to report to the Commission is a serious violation that is not taken lightly. In and of itself, this proposed agreement was appropriate. However, when comparing this case to other agreements concurrently pending before the Commission involving more experienced candidates and larger amounts of money, we felt this outcome to be disproportionately punitive to a small, one-time losing operation.

The Commission either accepts or rejects ADR negotiated settlements. As a rule, we do not renegotiate them. Our options after rejecting an agreement are to close the file or refer the matter to traditional Enforcement. We did not feel that this case warranted referral to our Enforcement Division. Although we would have preferred a lower penalty in this matter rather than a dismissal, in light of the Commission's resources and priorities, we decided to dismiss this matter.

For the above-stated reasons, we voted to reject the settlement agreement and close the file.

Michael E. Toner
Chairman

5/17/06
Date

Robert D. Lenhard
Vice Chairman

5/17/06
Date

Hans A. von Spakovsky
Commissioner

May 17, 2006
Date

Ellen L. Weintraub
Commissioner

5/17/06
Date