



**Federal Election Commission
Washington, DC 20463**

July 18, 2005

Cleta Mitchell, Esq.
Foley & Lardner
3000 K Street, N.W.
Washington, DC 20007-5101

Re: ADR 249
Freshmen PAC and David Metzner, Treasurer

Dear Ms. Mitchell:

Enclosed is the signed copy of the agreement resolving the referral initiated on March 28, 2005 by the Federal Election Commission ("FEC/Commission") against the Freshmen PAC and David Metzner, Treasurer ("Respondents"). The agreement for ADR 249 (RR 05L-05) was approved by the Commission on July 14, 2005 -- the effective date of the agreement.

Note that paragraph 9 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 6 of the aforementioned agreement. The letter should note the dates on which Respondents satisfied each of the terms listed in paragraph 6, and include a Table of Contents or Index for the Compliance Manual.

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

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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 249
Source RR 05L-05
Case Name Freshmen PAC

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 Cleta Mitchell, Esq. representing the Freshmen PAC and David Metzner, 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. The Reports Analysis Division ("RAD") referred the Committee for failing to disclose additional disbursements aggregating \$213,423.91. Respondents originally filed a 2004 July Quarterly Report on July 15, 2004. The original report disclosed \$220,065.18 in disbursements on Line 21(b), Other Federal Operating Expenditures. On August 20, 2004, the Committee filed an Amended 2004 July Quarterly Report that disclosed \$433,489.09 in disbursements on Line 21(b).
4. The FECA, and the implementing regulations, require that each Treasurer of a political committee shall file reports of disclosing all receipts and disbursements. 2 U.S.C. § 434(a)(1). The statute goes on to require that each report shall disclose all disbursements for the reporting period and the calendar year, and specifies all expenditures made to meet committee operating expenses. 2 U.S.C. § 434(b)(4)(A), 11 C.F.R. § 104.3(b)(1)(i).
5. Respondents acknowledge that a violation of the FECA occurred and in response to a Request for Additional Information from RAD, stated that after the 2004 July Quarterly

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Report was filed, the Committee determined that there were two disbursements that had been made during the reporting period but had not cleared the bank by June 30, 2004, the end of the reporting period. The Committee contends that as the checks had not cleared the bank by the end of the reporting period, the disbursements were overlooked in preparing the report. The Committee filed an amended 2004 July Quarterly Report to reflect accurate information.


- 6 Respondents contend that procedures have been put in place in an effort to avoid similar errors in the future, such as changed filing frequency to monthly to improve reporting and ensure timely receipt, established additional bank depository for contributions, retained FEC reporting consultant to confirm bank reconciliation, and prepare FEC reports to ensure compliance with the FECA. In addition, in order to resolve this matter, Respondents agree to compile a Compliance Manual detailing procedures and maintain internal control to educate Respondents' staff about campaign finance and further ensure compliance.
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 Court for the District of Columbia to secure compliance.
9. 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.
10. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 249 (RR 05L-05) 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:

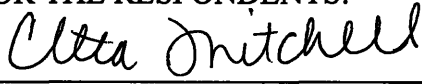
Allan D. Silberman, Director
Alternative Dispute Resolution Office


By:


Lynn M. Fraser, Assistant Director
Alternative Dispute Resolution Office


Date Signed

FOR THE RESPONDENTS:


Cleta Mitchell, Esq.
Counsel for the Freshmen PAC and
David Metzner, Treasurer


Date Signed

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