



**Federal Election Commission
Washington, DC 20463**

October 20, 2005

Thomas E. Arend, Jr., General Counsel
American College of Cardiology
11 Old Georgetown Road
Bethesda, MD 20814-1699

Re: ADR 257
American College of Cardiology PAC and Michael A. Votaw, Treasurer

Dear Mr. Arend:

Enclosed is the signed copy of the agreement resolving the referral initiated on May 19, 2005 by the Federal Election Commission ("FEC/Commission") against American College of Cardiology PAC and Michael A. Votaw, Treasurer ("Respondents"). The agreement for ADR 257 (RR 05L-20) was approved by the Commission on October 13, 2005 – the effective date of the agreement.

Note that paragraph 9 of the agreement specifies that Respondents shall comply with terms (a) and (c) of this settlement within thirty (30) days of the effective date of the agreement, and with term (b) within twelve (12) months 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.

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

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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: 257
Source RR 05L-20

Case Name: American College of Cardiology 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 Commission entered into negotiations with Tom Arend, Jr., General Counsel, representing the American College of Cardiology PAC and Michael A. Votaw, 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 Respondents for failing to file one (1) 48-Hour Notice for an independent expenditure totaling \$25,250 which was made during the period prior to and including the 20th day before the 2004 General Election. RAD alleged that the independent expenditure was made on October 13, 2004 and failed to file the required Notice within 48 hours as required. Respondents did disclose the expenditure on a Schedule E on October 22, 2004 when Respondents filed their 2004 12 Day Pre-General Report with the Commission.
4. The FECA requires a person, including a political committee, that makes or contracts to make independent expenditures aggregating \$10,000 or more at any time up to and including the 20th day before the date of an election to file a

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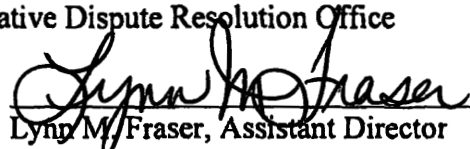
report describing the expenditures within 48 hours. 2 U.S.C. § 434(g)(2), 11 C.F.R. 104.4(b)(2). The reporting committee must also disclose the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate. In addition, this disclosure must include the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee. 2 U.S.C. § 434(b)(6)(B)(iii), 11 C.F.R. § 104.3(b)(3)(vii).

5. Respondents acknowledge an inadvertent violation of FECA, due to their inexperience. The Commission believed, as stated in a text message to the Commission, that as the expenditures were made more than twenty (20) days before the election that the Commission's statute and regulations did not require additional disclosure beyond the regular reporting schedule. As noted by RAD, Respondents stated that they disclosed the expenditure on Schedule E on October 22, 2004. Respondents stated they also filed the 48 Hour Notice on January 7, 2005.
6. Respondents, in an effort to avoid similar errors in the future, agree to: (a) appoint a FECA compliance officer; (b) the FECA compliance officer will attend a FEC seminar within twelve months; and (c) pay a civil penalty of \$1,000.
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 submit any unpaid civil penalty to the U.S. Treasury for collection or 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 terms (a) and (c) within thirty (30) days from the effective date of this agreement, and term (b) within twelve (12) months from the effective date of this agreement.
10. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 257 (RR 05L-20), 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:


Tom Arend, Jr. General Counsel
Representing the American College of Cardiology
And Michael Votaw, Treasurer


Date Signed

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