



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

Case Number: ADR 274
Source: MUR 5599
Case Name: Law Offices of
James Sokolove.

NEGOTIATED SETTLEMENT

This matter was initiated by a signed, sworn and notarized complaint filed by Timothy O'Brien on behalf of the Massachusetts Republican Party. 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 James M. Tierney, Esq. on behalf of the Law Offices of James G. Sokolove (the "Respondent"). 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 Respondent 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 Respondent. 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. The Respondent has voluntarily entered into this agreement with the Commission.
3. The complainant alleged that Respondent made a corporate contribution and an illegal independent expenditure when he urged Ms. Olga McKinney, in a letter sent by the Respondent, to vote for John Kerry for President.
4. Any corporation whatever is prohibited from making a contribution in connection with any Federal election. 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(b)(1).
5. The term "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate and that is not made in concert with or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or its agents, or a political party committee or its agent. 2 U.S.C. § 431(17) and 11 C.F.R. § 100.16. An independent expenditure that meets the requirement of the regulations is an expenditure and such independent expenditure is to be reported by the person making the expenditure in accordance with

20190203834

the Regulations. 11 C.F.R. § 100.113. Every person, other than a political committee, who makes independent expenditures in an aggregate amount or value in excess of \$250 during a calendar year shall file a statement containing the information required under section 2 U.S.C. § 434(b)(3)(A). 2 U.S.C. § 434(c)(1) and 11 C.F.R. § 104.4(a). Reports of independent expenditures in support of or in opposition to a candidate for President or Vice President shall be filed with the Commission. 11 C.F.R. §§ 104.4 (e) and (f).


6. Whenever any person makes a disbursement for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through, *inter alia*, any mailing such communication if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name and permanent street address, telephone number or World Wide Web address of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee. 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(b)(3).
7. The Respondent explained that the Law Offices of James G. Sokolove is a sole proprietorship not a corporate entity. The Respondent further explained that the letter, sent on October 13, 2003, to Ms. McKinney was sent to approximately 17,000 "clients and other individuals who had contacted Mr. Sokolove's office seeking legal advice" to convey Mr. Sokolove's views about the upcoming presidential election. The letter, according to the Respondent, was prepared, printed, and mailed entirely at the latter's expense without the assistance, cooperation or in coordination from the Kerry campaign or any other political committee or party organization. The Respondent noted that Mr. Sokolove did not use or incorporate material from the Kerry campaign in the letter which was printed on non-office stationery and distributed by a local mail-house. The Respondent advised that no other letters were distributed or other forms of communications sent by Mr. Sokolove pertaining to the 2004 presidential election.
8. The Respondent contends that the subject letter did not constitute a prohibited corporate contribution or a prohibited corporate independent expenditure given Respondent's status as a sole proprietorship and was a "permissible" independent expenditure as defined in the Regulations.
9. Both of the issues listed in the subject complaint are without merit. However, the Respondent acknowledged the error in failing to file with the Commission a timely report on the independent expenditure as required in the aforementioned Regulations. The Respondent also acknowledged his failure to include a disclaimer notice on the subject letters as required in the Statute and Regulations. In concluding this matter, the Respondent acknowledges receipt of a letter of admonishment for the aforementioned errors.
10. The Respondent agrees that all information provided to resolve this matter is true and accurate to the best of his knowledge and that he signs this agreement under penalty of perjury pursuant to 28 U.S.C. § 1746.
11. This agreement will become effective on the date signed by all the parties and approved by the Commission:

201902050313

12. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 274/MUR 5599 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.

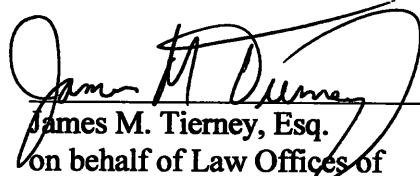
FOR THE COMMISSION:

Allan D. Silberman,
Director, Alternative Dispute Resolution Office


Allan D. Silberman

December 12, 2005
Date

FOR THE RESPONDENT:


James M. Tierney, Esq.
on behalf of Law Offices of
James G. Sokolove

November 10, 2005
Date

26190263836