



Federal Election Commission  
Washington, DC 20463

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

December 7, 2005

William O'Malley  
407 Belmont Drive  
Raymore, MO 64083

Re: ADR 297 (MUR 5615)

Dear Mr. O'Malley:

On November 16, 2004, the Federal Election Commission ("FEC" or "Commission") received your complaints alleging certain violations of the Federal Election Campaign Act of 1971, as amended. The three complaints were consolidated in MUR 5615.

After considering the circumstances of this matter, the Commission determined to exercise its prosecutorial discretion and to take no action against the Respondents, Ashcroft 2000 and Garrett Lott, Treasurer, Tony Trimble, and the Spirit of America PAC and Garrett Lott, Treasurer. In its memorandum to the Commission, dated November 25, 2005, this office stated:

Complainant, William O'Malley, alleges that Ashcroft 2000 and Garrett Lott, Treasurer (the "Ashcroft Committee") and counsel for the Committee Tony Trimble ("Respondent Trimble") solicited an illegal contribution. The solicitation occurred when Respondent Trimble offered a lesser amount than Complainant was demanding for past wages and expenses allegedly owed to Complainant by the Ashcroft Committee. The allegation is that the difference between what was owed and what was offered would result in an illegal excessive contribution.

In addition, the complaint alleges that on or about October 7, 2000 the Ashcroft Committee accepted an excessive contribution from a contributor. Specifically, a contributor's check in the amount of \$1,200 was forwarded to the Ashcroft Committee and the excessive portion of \$200 was not refunded.

The complaint also alleges that the Spirit of America PAC and Garrett Lott, Treasurer (the "Spirit Committee") failed to report \$10,000 in contributions received from the Ashcroft Committee. The allegations state that the Ashcroft Committee originally reported making \$10,000 in contributions to the Spirit Committee in 2000. The complaint goes on to allege that the Ashcroft Committee amended its report to disclose that \$5,000 was contributed on December 31, 2000 and \$5,000 was contributed on January 25, 2001. The complaint speculates that since Garrett Lott is the Treasurer for both Committees possibly he misappropriated the funds for personal gain, rather than pay the Ashcroft Committee's debts.

Respondent Trimble, as well as the Ashcroft Committee (collectively "Respondents"), contend that the Complainant is a disgruntled former employee trying to force reimbursement of expenses allegedly incurred by the Complainant on behalf of the Ashcroft Committee. To this end, Respondents maintain, Complainant has repeatedly threatened a civil lawsuit, but failed to ever file the suit with the courts. Respondents argue that the debt allegedly owed to the Complainant was the basis of MUR 5298, which was resolved in ADR 091, and the terms which Respondents agreed to in that matter were: amend reports to disclose the disputed debt; continue to report the debt until it is resolved, and pay a civil penalty of \$1,000. Respondents assert that the Ashcroft Committee complied with the terms of the agreement in ADR 091. Respondents argue that the regulations do not prohibit settlement discussions, nor does the FECA define settlement discussions as solicitation for excessive contributions.

In response to the allegations that the Spirit Committee failed to report \$10,000 in contributions from the Ashcroft Committee, Respondents concede that the Spirit Committee failed to report the contributions. The Committees contend that shortly after the contributions were received from the Ashcroft Committee, the Spirit Committee refunded the contributions, but failed to report the contributions or the refund.

The complaint also raises allegations that the Ashcroft Committee accepted an excessive contribution from an individual for the General Election. Respondents agree that Kermit Bright made a \$1,200 contribution in October 2000. Respondents concede that they initially failed to refund the excessive portion of the contribution, but advise that \$200 has been refunded to the contributor.

Accordingly, the Commission closed its file in this matter on December 2, 2005.

The FEC is obligated by federal regulations to make a finding to terminate its proceedings public, as well as the basis therefore. 11 C.F.R. § 111.20(b). In addition, the Commission will also place on the record copies of the complaint, correspondence exchanged between Respondents and the Commission, and reports prepared for the Commission by this office to assist in its consideration of this matter. Accordingly, copies

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of documents relative to this matter will be forwarded shortly to the FEC's Public Information Office.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Lynn M. Fraser  
Assistant Director, ADR Office

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