



**Federal Election Commission
Washington, DC 20463**

October 2, 2012

Steven Auerbach
100 Butterville Road
New Paltz, New York 12561

Re: ADR 616 (RAD 12L-22)
Frack Action USA PAC and Steven Auerbach, Treasurer

Dear Mr. Auerbach:

Enclosed is the signed copy of the agreement resolving the referral initiated on – **May 21, 2012** – by the Federal Election Commission (“FEC/Commission”) involving Frack Action USA PAC and Steven Auerbach, Treasurer (“Respondents”). The agreement for ADR 616 was approved by the Commission on **September 27, 2012** – the effective date of the agreement.

Note the specific time frames for compliance in paragraph 6 of the agreement. Please forward to this office, a statement certifying Respondent’s compliance with the terms listed in the aforementioned agreement. The letter should note the dates on which Respondents satisfied each of the terms listed in paragraph 6, and contain the ADR caption and case number. **The civil penalty payment should be sent to the attention of the Accounting/Finance Office of the FEC. The civil penalty under the agreement is due on or before March 27, 2012.¹ Please put the ADR case number on the civil penalty check as well, to ensure crediting to the correct case.**

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.

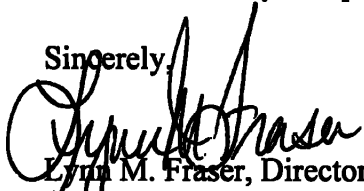
¹ Please note, if the Commission refers an unpaid civil penalty to the US Treasury or third party collection agent, additional costs and fees will be assessed.

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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 assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

Sincerely,



Lynn M. Fraser, Director
Alternative Dispute Resolution Office
202-694-1665

Enclosure: Agreement

cc: Gwen Holmes, Finance and Accounting Office
Room 819

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Federal Election Commission
Washington, DC 20463

Case Number: ADR 616
Source: RAD 12L-22
Case Name: Frack Action USA 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 Steve Auerbach representing the Frack Action USA PAC (Respondent or the committee). 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 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 Respondent. The Commission's use of alternative dispute resolution procedures (ADR) is guided by "The Administrative Dispute Resolution Act of 1996," 5 U.S.C. § 572 and is an extension of 2 U.S.C. § 437g.
2. Respondent voluntarily enters into this agreement with the Commission.
3. RAD referred Respondent, an independent expenditure only committee, for failing to file five (5) 24-Hour Notices totaling \$35,987 for five (5) independent expenditures in support of one (1) federal candidate disclosed on Schedule E of the committee's 2010 Year End Report.
4. A person, including a political committee, that makes or contracts to make independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours. After a person files an initial report, the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$1,000 with respect to the same election as that to which the initial report relates. 2 U.S.C. § 434(g)(1)(A)-(B), 11 C.F.R. § 104.4(c).
5. Respondent acknowledges inadvertently failing to file the 24 Hour Notices due to inexperience. Respondent's only experience with campaign finance was with state elections and was unaware of the necessity of filing the Notices, or even how to file the

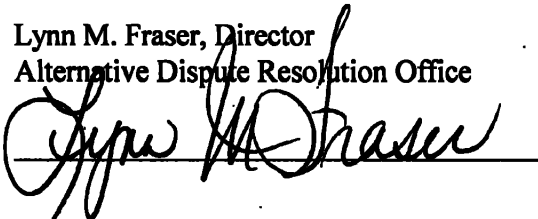
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Notices. In addition, Respondent contends that the Committee was a Super PAC set up strictly for the purpose of independent expenditures supporting the candidacy of a single member of Congress in the 2010 Election, raised very limited funds, and it has not been active since the 2010 Election.

6. Respondent, in an effort to avoid similar errors in the future, agrees to: (a) work with Commission staff to terminate the super PAC within ninety (90) days of the effective date of this agreement; and (b) pay a civil penalty of \$1,000 within one hundred eighty (180) days of the effective date of this agreement.
7. Respondent's representative agrees that all information provided to resolve this matter is true and accurate to the best of its knowledge and that it signs this agreement under penalty of perjury pursuant to 28 U.S.C. § 1746.
8. The parties agree that if Respondent fails 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 the terms of this agreement as set out in paragraph 6 above, and shall certify compliance with the above settlement terms in writing to the Alternative Dispute Resolution Office on or before the date each term becomes due.
10. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 616 (RAD 12L-22), and resolves those issues identified in paragraph 3 above. No other statement, promise or agreement, either written or oral, made by either party, not included herein, shall be enforceable.


FOR THE COMMISSION:

Lynn M. Fraser, Director
Alternative Dispute Resolution Office



9-27-2012
Date Signed

FOR THE RESPONDENT:



Steve Auerbach
Representing Frack Action USA PAC

2/11/12
Date Signed