



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 19, 2012

Jason Torchinsky, Esq.
P. Christopher Winkelman, Esq.
Holtzman Vogel Josefiak PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

Re: ADR 619 (PMUR 536)
The Common Sense Movement

Dear Mr. Torchinsky and Mr. Winkelman:

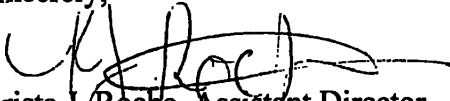
Enclosed is the signed copy of the agreement resolving the *sua spontae* submission dated May 9, 2012 received by the Federal Election Commission (FEC/Commission) on behalf of The Common Sense Movement (Respondent). The agreement for ADR 619 (PMUR 536) was approved by the Commission on July 19, 2012 – 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 confirming Respondent's compliance with the terms listed in paragraph 6 of the aforementioned agreement. The letter should note the dates on which Respondent satisfied each of the terms listed in paragraph 6 and contain the ADR caption and case number.

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 *sua spontae* submission 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 issues involved in the *sua spontae* submission. I appreciate your assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

Sincerely,


Krista J. Roche, Assistant Director
Alternative Dispute Resolution Office

Enclosure: Agreement

cc: Gwendolyn Holmes, Finance

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**Federal Election Commission
Washington, DC 20463**

Case Number: ADR 619
Source: P-MUR 536
Case Name: The Common Sense Movement

NEGOTIATED SETTLEMENT

This matter was initiated by a *sua sponte* submission filed on May 9, 2012. 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 Jason Torchinsky, Esq. representing The Common Sense Movement, (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 addressed the issues raised in this *sua sponte* submission. 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. The Office of the General Counsel referred Respondent for violations disclosed in a *sua sponte* submission dated May 9, 2012. In that submission Respondent disclosed the failure to timely file a 24-Hour Notice for an independent expenditure totaling \$29,760 for a television ad that aired from April 17-22, 2012. According to the *sua sponte* submission, the television ad at issue also failed to include the statement "Common Sense Movement is responsible for the content of this advertising."
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. 2 U.S.C. § 434(g), 11 C.F.R. § 104.4(c). All public communications for which an independent expenditure only group makes a payment must include a disclaimer, and television advertisements must include a declaration of who is responsible for the content of the advertising. 2 U.S.C. § 441d, 11 C.F.R. § 110.11(c)(4).


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5. Respondent contends that on May 7, 2012, as soon as the oversight was uncovered, the proper FEC form was filed. Respondent further contends that the error was uncovered after a thorough review of the group's activities.
6. Respondent, in an effort to avoid similar errors in the future, agrees to: (a) designate a compliance specialist within thirty (30) days of the effective date of this agreement; (b) circulate a written policy and procedure document detailing the proper reporting of independent expenditures and disclaimer requirements within thirty (30) days of the effective date of this agreement; and (c) pay a civil penalty of \$1,500 within thirty (30) days of the effective date of this agreement.
7. Respondent agrees that all information provided to resolve this matter is true and accurate to the best of its knowledge and that its representative 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. Respondent 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 619 (P-MUR 536), 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:


Krista J. Roche, Assistant Director
Alternative Dispute Resolution Office





Date Signed

FOR THE RESPONDENT:



Chris Winkelman, Esq.
Representing The Common Sense Movement



Date Signed