



**Federal Election Commission
Washington, DC 20463**

August 4, 2014

Marc E. Elias, Esq.
Jonathan S. Berkon, Esq.
700 Thirteenth Street, NW, Suite 600
Washington, DC 20005

Re: ADR 683 (Pre-MUR 534)
ADR 685 (RR 12L-18)
ADR 687 (RR 12L-43)
Feinstein for Senate, Fund for the Majority and William Wardlaw, Treasurer

Dear Messrs Elias and Berkon:

Enclosed is the signed copy of the Negotiated Settlement resolving the above shown matters. The Negotiated Settlement was approved by the Federal Election Commission ("FEC/Commission") on July 31, 2014 – the effective date of the agreement.

Note the specific time frames for compliance in Paragraph 8 of the agreement. Please forward to this office, a statement confirming Respondent's compliance with the terms listed in the aforementioned agreement. The letter should note the date on which Respondents satisfied the term listed in Paragraph 8 and contain the ADR caption and case number.

As you are aware, the Negotiated Settlement 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 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 these matters that were 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.



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Case Number: ADR 683
Source: P-MUR 534
Case Number: ADR 685
Source: RR 12L-18
Case Number: ADR 687
Source: RR 12L-43
Case Name: Feinstein for Senate and
Fund for the Majority

NEGOTIATED SETTLEMENT

This matter was initiated by the Federal Election Commission (Commission) pursuant to information ascertained by the filing of a *sua sponte* submission and 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 Marc E. Elias, Esq., and Jonathan Berkon, Esq., representing Feinstein for Senate, Fund for the Majority, and William Wardlaw, in his official capacity as Treasurer of both Committees (the Committees 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 these referrals and *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 Respondents. 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. Respondents voluntarily enter into this agreement with the Commission.
3. In ADR 683, Respondents filed a joint *sua sponte* submission indicating that a former Treasurer, Kinde Durkee, misappropriated funds at various times during her tenure. Ms. Durkee served as Treasurer of Feinstein for Senate from January 2011 through September 2011. Ms. Durkee served as Treasurer of Fund for the Majority from March 2007 through September 2011.

ADR 683 (P-MUR 534)
ADR 685 (RR 12L-18)
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4. In ADR 685, the Reports Analysis Division (RAD) referred Respondent Feinstein for Senate for failing to disclose all financial transactions in violation of the FECA. The Committee filed its 2011 October Quarterly Report to disclose unauthorized receipts of \$100,000 and unauthorized disbursements of \$4,645,386.12.
5. In ADR 687, RAD referred Respondent Fund for the Majority for failing to disclose all financial transactions in violation of the FECA. The Committee filed its 2011 Year End Report to disclose unauthorized receipts of \$1,847.10 and unauthorized disbursements of \$25,000.
6. Treasurers of political committees are required to report all financial activity, including all receipts, disbursements, and debts, pursuant to the FECA. 2 U.S.C. §§ 434(b)(2), (4), and (8), 11 C.F.R. §§ 104.3(a), (b), and (d).
7. Respondents contend that upon the discovery of the unauthorized transactions the Committees retained a law firm to review financial records and file amended reports and implemented new internal controls.
8. Respondents, in an effort to avoid similar errors in the future, agree to certify the implementation of internal controls consistent with the Commission's Best Practices for Committee Management (2009 update) within thirty (30) days of the effective date of this agreement.
9. 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.
10. The parties agree that if Respondents fail to comply with the terms of this settlement, the Commission may undertake civil action in the U.S. District Court for the District of Columbia to secure compliance.
11. 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 8 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.
12. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 683 (P-MUR 534), ADR 685 (RR 12L-18), and ADR 687 (RR 12L-43), and resolves those issues identified in paragraphs 3, 4 and 5 above. No other statement, promise or agreement, either written or oral, made by either party, not included herein, shall be enforceable.

