



Federal Election Commission
Washington, DC 20463

July 1, 2014

Lyn Utrecht, Esq.
Karen Zeglis, Esq.
Utrecht & Phillips, PLLC
1900 M Street, N.W.
Washington, DC 20036

Re: ADR 686 and ADR 688
Susan Davis for Congress and Brett P. Smiley, Treasurer

Dear Mses. Utrecht and Zeglig:

Enclosed is the signed copy of the agreement resolving both the *sua sponte* submission of May 11, 2012 filed with the Federal Election Commission (FEC or Commission) by Susan Davis for Congress and Brett P. Smiley, Treasurer (Respondents), and the RAD Referral alleging the unauthorized transactions by Kinde Durkee, a former Treasurer. The consolidated agreement resolving ADR 686 (P-MUR 537) and ADR 688 (RR 12L-29) was approved by the Commission on June 24, 2014 – the effective date of the agreement.

Note the specific time frames for compliance in paragraph 7 of the agreement. Please forward to this office, a statement confirming Respondent's compliance with the term of the aforementioned agreement. The letter should note the dates on which Respondents satisfied the term listed in paragraph 7 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 referral and the *sua sponte* 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 to the FEC's Public Information Office.

This agreement resolves the issues involved in both the RAD referral and the *sua sponte* submission. I appreciate your assistance in effectively resolving these matters and bringing the cases to a mutually acceptable conclusion.

Sincerely,

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

Enclosure: Agreement



Federal Election Commission
Washington, DC 20463

Case Number: ADR 686
Source: P-MUR 537
Case Number: ADR 688
Source: RR 12L-29
Case Name: Susan Davis for Congress

NEGOTIATED SETTLEMENT

These matters were initiated by receipt of a *sua sponte* submission and by the Federal Election Commission (Commission) pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. Following review of these matters, and in an effort to promote compliance with the Federal Election Campaign Act of 1971, as amended, (FECA) and resolve these matters, the Commission entered into negotiations with Lyn Utrecht, Esq. and Karen Zeglis, Esq., representing Susan Davis for Congress and Brett P. Smiley, in his official capacity as Treasurer (the Committee 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 the *sua sponte* submission and the 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 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 686, Respondents filed a *sua sponte* submission alleging that a former treasurer, Kinde Durkee, misappropriated Committee funds during her tenure (2008-2011). Respondents contend that although the unauthorized financial transactions resulted in inaccurate reports being filed with the Commission, amended reports have been filed to correct the record.
4. In ADR 688, the Reports Analysis Division (RAD) referred Respondents for failing to disclose all financial transactions in violation of the FECA. The Committee filed its 2011 October Quarterly Report to disclose unauthorized disbursements of \$160,015.47.

5. 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).
6. Respondents acknowledge filing an Amended 2011 October Quarterly Report to disclose a \$160,015.47 cash-on-hand adjustment due to the unauthorized transactions of former treasurer, Kinde Durkee. In addition, Respondents contend they conducted a comprehensive analysis of the Committee's financial activity, contracted with a new compliance vendor, and implemented additional financial procedures and internal controls.
7. Respondents, in an effort to resolve this matter, agree to certify implementation of internal control procedures consistent with the Commission's Best Practices for Committee Management (2009 update) within thirty (30) days of the effective date of this agreement.
8. 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.
9. 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.
10. 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 7 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.
11. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 686 (P-MUR 537) and ADR 688 (RR 12L-29), and resolves those issues identified in paragraphs 3 and 4 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

FOR THE RESPONDENTS:

Lyn Utrecht, Esq.
Representing Susan Davis for Congress and
Brett P. Smiley, Treasurer

6/24/14
Date Signed

5/30/2014
Date Signed