



Federal Election Commission  
Washington, DC 20463

December 1, 2014

Frank S. Swain, Esq.  
Faegre Baker Daniels, LLP  
1050 K Street NW, Suite 400  
Washington, DC 20001

Re: ADR 733  
FAEGREBD PAC and Frederick Garver, Treasurer

Dear Mr. Swain:

Enclosed is the signed copy of the Negotiated Settlement resolving the referral initiated on August 6, 2014 by the Federal Election Commission ("FEC/Commission") involving the above-shown Respondents. The Negotiated Settlement was approved by the Commission on December 1, 2014 – 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 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 December 31, 2014.<sup>1</sup> Please put the ADR case number on the civil penalty check as well, to ensure crediting to the correct case.**

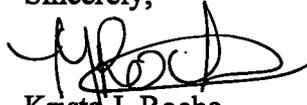
As you are aware, the Negotiated Settlement will be made part of the record that is released to the public. The Commission will also place on the record copies of the complaint/referral, correspondence exchanged between your office and this office prior to our negotiations, and reports prepared for the 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.

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<sup>1</sup> 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.

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,



Krista J. Roche

Assistant Director

Alternative Dispute Resolution Office

Enc: Negotiated Settlement

cc: Gwendolyn Holmes, Finance and Accounting Office



**Federal Election Commission  
Washington, DC 20463**

Case Number: ADR 733  
Source: RAD 14L-28  
Case Name: FaegreBD 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 Frank S. Swain, Esq. representing the FaegreBD PAC and Frederick Garver, 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 this referral. The parties agree to resolve the matter according to the following terms:

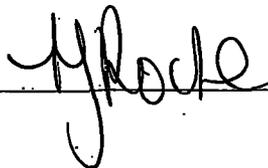
1. The Commission entered into this agreement as part of its responsibility for administering the FECA, and in an effort to promote compliance on the part of Respondents. The Commission's use of alternative dispute resolution procedures (ADR) is guided by "The Administrative Dispute Resolution Act of 1996," 5 U.S.C. § 572 and is an extension of 52 U.S.C. § 30109 (formerly 2 U.S.C. § 437g).
2. Respondents voluntarily enter into this agreement with the Commission.
3. The Reports Analysis Division referred Respondents for failing to disclose all financial activity on the 2013 October Monthly Report, originally filed on October 18, 2013. On March 19, 2014, the Committee filed an Amended 2013 October Monthly Report disclosing additional receipts of \$125,000.
4. Treasurers of political committees are required to report all financial activity, including all receipts, pursuant to the FECA. 52 U.S.C. §§ 30104(a)(1), 30104(b)(2) (formerly 2 U.S.C. §§ 434(a)(1), 434(b)(2)), 11 C.F.R. §§ 104.1, 104.3(a).
5. In a Miscellaneous Electronic Submission (Form 99) filed on May 27, 2014, the Respondents asserted that as a result of a recent merger of the Committee's supporting law firm, inexperienced staff handled the management of the accounting and FEC reporting. The Committee contended it discovered the omissions as a result

of a routine year-end audit. The Committee contended that it has procedures requiring a monthly reconciliation of bank statements and accounting records, and is ensuring the training of redundant accounting and reporting personnel in these procedures. In addition, the Committee contended it will utilize new reporting software and will require all those involved with management and reporting responsibilities to attend FEC training.

6. Respondents, in an effort to avoid similar errors in the future, agree to: (a) develop and certify implementation of a compliance operations manual which includes internal controls consistent with those described in the Commission's Internal Controls and Political Committees advisory document (2007) and the Best Practices for Committee Management (published in the April 2009 Record, available at [www.fec.gov/pages/brochures/bestpractices.shtml](http://www.fec.gov/pages/brochures/bestpractices.shtml)) within ninety (90) days of the effective date of this agreement; (b) certify that a representative of the Committee who has not previously attended FEC training participated in an FEC seminar within twelve (12) months of the effective date of this agreement; and (c) pay a civil penalty of \$3,100 within thirty (30) days of the effective date of this agreement.
7. 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.
8. The parties agree that if Respondents fail 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 733 (RAD 14L-28), 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

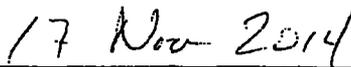




Date Signed

FOR THE RESPONDENTS:





Date Signed

Frank S. Swain, Esq.  
Representing FaegreBD PAC and  
Frederick Garver, Treasurer

14-000000-100