



Federal Election Commission
Washington, DC 20463

January 27, 2015

Laurence E. Gold
Trister, Ross, Schadler & Gold PLLC
1666 Connecticut Avenue NW Fifth Floor
Washington, DC 20009

Re: ADR 736 (RR 14L-22)
New York State Conference of the International Union of Operating Engineers
FED VPAF and Theron H. Hogle, Treasurer

Dear Mr. Gold:

Enclosed is the signed copy of the agreement resolving the referral initiated on August 25, 2015 by the Federal Election Commission ("FEC/Commission") involving the New York State Conference of the International Union of Operating Engineers FED VPAF and Theron H. Hogle, Treasurer ("Respondents"). **The agreement for ADR 736 (RR 14L-22) was approved by the Commission on January 22, 2015 – 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 ---- February 22, 2015.¹ 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

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.

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 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 and Adam Liu, Finance and Accounting Office
Room 819



**Federal Election Commission
Washington, DC 20463**

Case Number: ADR 736
Source: RR 14L-22
Case Name: New York State Conference of the International
Union of Operating Engineers Fed VPAF
(NYS CONF IUOE FED VPAF)

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 Laurence E. Gold, representing the New York State Conference of the International Union of Operating Engineers Fed VPAF (NYS CONF IUOE FED VPAF) and Theron H. Hogle, 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 (RAD) referred Respondents for failing to disclose all its financial activity on its 2012 12 Day Pre-General Report. Respondents filed the original 2012 12 Day Pre-General Report on October 23, 2012. The Committee filed two Amended 2012 12 Day Pre-General Reports on July 16, 2013 to disclose additional disbursements of \$400,000.
4. Treasurers of political committees are required to report all financial activity, including all disbursements, pursuant to the FECA. 52 U.S.C. § 30104(b)(4) (formerly 2 U.S.C. § 434(b)(4)), 11 C.F.R. § 104.3 (b).
5. Respondents contend that the Committee inadvertently omitted the transfer of funds to an affiliated political committee when preparing the report. The transfer was mistakenly not

transmitted from Respondents' QuickBooks file to the outside accounting firm that prepared the report, and thus a reconciliation by the firm did not catch the omission. The Committee discovered the error during an internal audit after the Committee's fiscal year and promptly amended the 12 Day Post-General Report to report the transfer as well as subsequent reports to correct their ending cash-on-hand figures. The Committee has since implemented new financial procedures and changed its financial institution.

6. Respondents, in an effort to avoid similar errors in the future, agree to: (a) develop and certify implementation of 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) within ninety (90) days of the effective date of this agreement; (b) develop and certify the implementation of a process whereby the Committee's financial activity is reconciled to each report before the report is filed with the Commission for two years, with the first certification due on the first anniversary of the effective date of this agreement, and the second certification on the second anniversary of the effective date of this agreement; (c) certify that a representative of the Committee participated in an FEC conference, webinar, or other program developed in consultation with the FEC's Information Division within twelve (12) months of the effective date of this agreement; and (d) pay a civil penalty of \$6,500 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 736 (RR 14L-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.

