

Sincerely,

Krista J. Roche

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Director

Alternative Dispute Resolution Office

Enc: Payment Instructions
Compliance Chart
Negotiated Settlement

cc: Gwendolyn Holmes, Finance and Accounting Office



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Case Number: ADR 887
Source: AD 17-03
Case Name: Brian Higgins for Congress

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 Brian Svoboda, Esq., representing Brian Higgins for Congress and Holly Giarraputo, in her 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.
2. Respondents voluntarily enter into this agreement with the Commission.
3. The Audit Division referred Respondents for one finding detailed in the Final Audit Report approved by the Commission on August 21, 2018. Finding 2 states that the Committee received contributions in excess of the limit totaling \$41,424. These errors occurred because Respondents did not maintain timely presumptive redesignation or reattribution letters or signed redesignation or reattribution letters from its contributors that would have resolved the excessive amounts, or did not issue timely refunds of the excessive portions of the contributions.
4. During the 2016 election cycle, no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceeds \$2,700. 52 U.S.C. § 30116 (a), 11 C.F.R. § 110.1(b). No candidate or political committee shall knowingly accept any contribution in violation of this limit. 52 U.S.C. §§ 30116(f). Commission regulations permit political committees to resolve excessive contributions through written redesignations and reattributions. 11 C.F.R. § 110.1(b)(5), (k), (l).

5. During the audit process, Respondents submitted presumptive reattribution and redesignation letters to resolve all but \$5,400 of the contributions, and provided completed reattribution letters signed by both contributors to resolve the remaining \$5,400. The Audit Division acknowledged that the Committee provided evidence that resolved, albeit untimely, all of the excessive contributions.
6. Respondents, in an effort to avoid similar errors in the future, agree to: (a) retain an outside consultant to review its compliance procedures and conduct an on-site training with those responsible for preparing and filing its reports within ninety (90) days of the effective date of this agreement; (b) 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. Holly Giarraputo was not the Committee's treasurer during the 2016 election cycle and is a Respondent solely in her representative capacity.
9. 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.
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 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.
11. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 887 (AD 17-03), 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, Director
Alternative Dispute Resolution Office



3-4-19
Date Signed

FOR THE RESPONDENTS:



Brian Svoboda, Esq.,
Representing Brian Higgins for Congress
and Holly Giarraputo, in her official capacity as
Treasurer

2-19-2019
Date Signed

COURT-REPORTER