



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 6, 2020

Scott E. Thomas, Esq.
1825 Eye Street, NW
Washington, DC 20006

Re: ADR 949 (RAD 19L-40)
Bayer U.S. LLC Political Action Committee and Brian Branca, Treasurer
(C00281162)

Dear Scott Thomas:

Enclosed is the signed copy of the Negotiated Settlement resolving the above-shown matter. The Negotiated Settlement was approved by the Commission on August 6, 2020 – the effective date of the agreement.

Note the specific time frames for compliance detailed in the agreement. Please forward to this office, a statement confirming Respondent's compliance with each term. The letter should note the dates on which Respondents satisfied each of the terms and contain the ADR case number. For your convenience, a compliance chart is attached.

Under the terms of the agreement, a civil penalty in the amount of \$6,250 is due on September 5, 2020. Kindly review the attached payment instructions for details on payment methods and the collection of unpaid debts.

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 Records Office.

This agreement resolves this matter. I appreciate your assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

FEDERAL ELECTION COMMISSION – ALTERNATIVE DISPUTE RESOLUTION OFFICE
1050 FIRST STREET, N.E., WASHINGTON, D.C. 20463
TELEPHONE: 202.694.1136
EMAIL: JREBOLLOZO@FEC.GOV

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua Rebollozo", written in a cursive style.

Joshua A. Rebollozo
ADR Specialist
Alternative Dispute Resolution Office

Enc: Payment Instructions
Compliance Chart
Negotiated Settlement

ADRO Civil Penalty Payment Instructions

You may remit payment by credit card, debit card, or ACH withdrawal from your bank account through Pay.gov, the federal government's secure portal for online collections. Visit www.fec.gov/adrpayment to be directed to Pay.gov's FEC ADR Payment form.

Unpaid Civil Penalties

Unpaid civil money penalties will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 et seq. If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact you to request payment. Treasury currently charges a fee of 30% of the civil money penalty amount for its collection services. If the age of the debt is greater than or equal to two years old, Treasury will charge a fee of 32% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

Actions which may be taken to enforce recovery of a delinquent debt by Treasury may also include: (1) offset of any payments, which the debtor is due, including tax refunds and salary; (2) referral of the debt to agency counsel for litigation; (3) reporting of the debt to a credit bureau; (4) administrative wage garnishment; and (5) reporting of the debt, if discharged, to the IRS as potential taxable income. In addition, under the provisions of DCIA and other statutes applicable to the FEC, the debtor may be subject to the assessment of other statutory interest, penalties, and administrative costs.

In accordance with the DCIA, at your request, the agency will offer you the opportunity to inspect and copy records relating to the debt, the opportunity for a review of the debt, and the opportunity to enter into a written repayment agreement.

ADR 949 Compliance Chart**Type**

Conduct internal education program for employees or staff
Develop a FEC Compliance Manual
Attend FEC seminar

Date Due

November 4, 2020
November 4, 2020
August 6, 2021



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Case Number: ADR 949

Source: RAD 19L-40

Case Name: Bayer U.S. LLC Political Action Committee

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 Scott E. Thomas, Esq. representing Bayer U.S. LLC Political Action Committee and Brian Branca, in the official capacity of 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 Reports Analysis Division (RAD) referred Respondents for failing to disclose all financial activity on its 2019 April Monthly Report, originally filed on April 20, 2019. On May 20, 2019, the Committee filed an Amended 2019 April Monthly Report including \$232,104.92 in additional receipts.
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), 11 C.F.R. §§ 104.1, 104.3(a).
5. Respondents state that the failure to disclose all financial activity on the original report was a result of staff turnover and an isolated failure to communicate due to the merging of two political committees. Respondents contend that the additional receipts disclosed on Line 12 (totaling \$226,702) pertained to transfers from an affiliated PAC that timely and properly reported the disbursement of the transfer, ultimately disclosing the transaction on the public record. Respondents further state that they have since expanded the responsibilities of their outside consultant who now assists in the reconciliation,

preparation, and filing of their FEC reports in an attempt to ensure all required information is disclosed on future reports.

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) develop and certify implementation of a compliance operations manual which includes position-by-position standard operating procedures and 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), as well as a process to track receipt of, and response to, communications with the Commission within ninety (90) days of the effective date of this agreement; (c) certify that a representative of the Committee participated in an FEC conference, webinar, or other training 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 \$6,250 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 undertake civil action in the U.S. District Court for the District of Columbia to secure compliance. Unpaid civil money penalties are subject to the Debt Collection Act of 1982 as amended by the Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. § 3701 *et seq.* The Commission will transfer debt to the United States Department of the Treasury (Treasury) for collection.
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. Completion of any term set out in paragraph 6 after the signing of this agreement by Respondents but prior to the effective date of this agreement, shall be considered compliance with that term at such time as this agreement becomes effective.
10. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 949 (RAD 19L-40), 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:

Joshua A. Rebollozo, ADR Specialist
Alternative Dispute Resolution Office



8/6/2020

Date Signed

FOR THE RESPONDENTS:



Scott E. Thomas, Esq.
Representing Bayer U.S. LLC Political Action
Committee and Brian Branca, Treasurer

2/27/2020

Date Signed