



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Melissa Bean for Congress and Alan) ADR 289
Bean, Treasurer)

STATEMENT OF REASONS

This matter arose when Melissa Bean for Congress filed amendments to its 2004 30-Day Post-General Report on April 15, 2005. The amendments disclosed \$50,908.02 in additional debts that the committee believed should have been disclosed on the Post-General Report. The newly reported debts included: (a) \$25,908.02 in debts that were incurred during the reporting period, but for which the Committee had not yet received invoices; and (b) \$25,000 in debts to three members of the campaign staff for "win bonuses" that were paid after the close of the reporting period. According to the Committee, the agreement to pay bonuses was contingent not only on Ms. Bean winning the election, but also on the Committee having money left over after settling all of its debts. The exact amount of any bonuses paid would be dependent on the amount of funds left over, if any.

The Committee's amendment resulted in a referral to the Office of Alternative Dispute Resolution, which negotiated a settlement in which the Committee admitted that it had been required to report the \$50,908.02 in debts on its Post-General Report. The Commission decided

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not to accept the settlement because the Committee was not required to report the "win bonuses" as debt on the Post-General Report.¹

A debt or obligation in excess of \$500 is reportable as of the date it is incurred.² See 11 CFR 104.11(b). This debt was not incurred until all of the conditions precedent to the agreement to pay a bonus were met. The final condition precedent to the agreement was met only after the close of the reporting period, when the Committee determined that it had money left after paying all of its bills.³

Because the negotiated settlement was premised on an incorrect construction of the Committee's reporting obligations, the Commission voted unanimously not to approve the agreement. In conformance with agency practice, the Commission has exercised its prosecutorial discretion and terminated proceedings in this matter. See *Heckler v. Chaney*, 470 U.S. 821 (1985).

3/21/07
Date

3/7/07
Date

3/7/07
Date


Robert D. Lenhard
Chairman


David M. Mason
Vice-Chairman


Michael E. Toner
Commissioner

¹ The settlement correctly stated that the \$25,908.02 should have been reported on the Post-General Report, even though the Committee had not received invoices by the close of the reporting period.

² The Commission's regulations provide an exception to this general rule for rent, salary and other regularly reoccurring administrative expenses. Those obligations are not to be reported as a debt prior to the payment due date. In contrast, debts and obligations of \$500 or less are to be reported at the time the payment is made or not later than 60 days after the debt or obligation is incurred, whichever comes first. 11 CFR 104.11(b).

³ Had a win by the candidate been the only condition precedent to the Committee's obligation to pay bonuses, a debt would have been incurred on the date that the candidate's victory became known.

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3/7/07
Date

3/7/07
Date

3-7-07
Date

Steven T. Walther
Steven T. Walther
Commissioner

Ellen L. Weintraub
Ellen L. Weintraub
Commissioner

Hans A. von Spakowsky
Hans A. von Spakowsky
Commissioner

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