



**Federal Election Commission
Washington, DC 20463**

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silberman
Director, ADR Office

BY: Lynn M. Fraser
Assistant Director, ADR Office

SUBJECT: Negotiated Settlement ADR 022

DATE: August 28, 2001

Attached for your review is a signed negotiated settlement agreement for ADR 022 (MUR 5013), respondents Michael J. Becker and Clair W. Clemens. This case originated from a signed complaint and was assigned by the Commission to the ADR Office on April 3, 2001. This agreement was previously submitted on August 13, 2001 to the Commission for its approval as part of a package of nine agreements. The package was subsequently withdrawn to enable the Commission to consider and vote separately on each submitted agreement.

ADR 022: Complainant alleged that respondents perjured themselves during an investigation into MUR 4641 which alleged an excessive contribution from respondent Clemens in 1994. The basis for the allegation was that the candidate for Federal office sent a check in repayment of the loan dated after the FEC closed MUR 4641 based on prosecutorial discretion in December 1997. Respondent Becker said the check dated in December 1997 was the *second* check sent, which he did as soon as he realized that the contributor never negotiated the first check. The contributor admitted that he put the first check in his desk drawer and forgot about it. Respondents contended that the original contribution in 1994 (admittedly excessive) is beyond the five year statute of limitations and Clemens failing to cash a check sent to him in March 1997 is not a violation of the FECA. Respondents also contended that the issue of perjury is outside the scope of the FECA, and if further action seemed required the matter would have been referred to the appropriate agency.

Recommendation: We recommend that the Commission approve the negotiated settlement for ADR 022, and subsequently close the file on this matter.