



Federal Election Commission
Washington, DC 20463

Case Number. ADR 043
Source: MUR 5149
Case Name. Cynthia McKinney for Congress
and Elyria Mackie, Treasurer

NEGOTIATED SETTLEMENT

This matter was initiated by a signed, sworn and notarized complaint filed by William S. Simon. 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 Federal Election Commission ("Commission") entered into negotiations with Elyria Mackie, Treasurer, representing Cynthia McKinney for Congress and Elyria Mackie as Treasurer (collectively "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 all the issues raised in this matter. The parties agree to resolve the matter according to the following terms:

1. The Commission enters 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 authorized in "The Administrative Dispute Resolution Act of 1996" 5 U.S.C. § 572, and is an extension of 2 U.S.C. § 437g.
2. Respondents voluntarily enter into this agreement with the Commission.
3. Complainant alleges that respondents violated ethics regulations of the United States House of Representatives by mass mailing a book to constituents less than 90 days prior to the general election. Complainant also alleges that respondents failed to report \$7,500 in two (2) contributions from American Family Life Assurance Company Political Action Committee ("AFLAC PAC"). AFLAC PAC's reports filed with the Commission reflected these two contributions.
4. Treasurers of political committees are required to file reports with the Commission of receipts and disbursements. 2 U.S.C. § 434(a). In addition, multicandidate political committees are prohibited from making contributions which in the aggregate exceed \$5,000 to a candidate for any election for Federal

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office. 2 U.S.C. § 441a(a)(2). Multicandidate political committees are encouraged to designate their contributions in writing for specific elections. 11 C.F.R. § 110.2(b)(2)(i).

5. Respondents assert that while they do not believe the Commission has any jurisdiction over alleged violations of franking privileges by a member of Congress, they respond that the book at issue was mailed to less than 500 constituents. The mailing did not, therefore, constitute a mass mailing as defined by federal statute. As to the second allegation of a violation of 2 U.S.C. § 434(a), Respondents contend that the two (2) contributions by AFLAC PAC were reported as required. Respondents received \$2,500 (two thousand five hundred dollars) from AFLAC PAC on March 10, 2000 designated for the primary election, and reported it on the April 2000 Quarterly Report. Respondents subsequently received \$5,000 (five thousand dollars) on April 25, 2000 designated for the general election from AFLAC PAC, and reported it on the next report filed, which was the Twelfth Day Report Preceding the Primary. Respondents checked the wrong designation on the latter report, but filed an amended report correcting their error. Respondents request the Commission dismiss this matter.
6. After a review of the complaint, the response, and documentation in the file, the ADR Office concludes that the alleged violations of the FECA, in this matter, are unsubstantiated. The Commission agrees to dismiss this matter.
7. This agreement shall become effective on the date signed by all parties and approved by the Commission.
8. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 043 (MUR 5149), and effectively resolves this matter. No other statement, promise or agreement, either written or oral, made by either party, not included herein, shall be enforceable.

FOR THE COMMISSION:

Allan D. Silberman, Director
Alternative Dispute Resolution Office

By:


Lynn M. Fraser, Assistant Director
Alternative Dispute Resolution Office

1/18/02
Date Signed

FOR THE RESPONDENTS:


Name: Elyria Mackie, Treasurer
Cynthia McKinney for Congress

12/07/2001
Date Signed

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