



**Federal Election Commission
Washington, DC 20463**

May 3, 3006

Michael DeHaven, Treasurer
Jim Gerlach for Congress Committee
P.O. Box 87
Uwchland, PA 19480

Re: ADR 306
Jim Gerlach for Congress Committee and Michael DeHaven, Treasurer

Dear Mr. DeHaven:

Enclosed is the signed copy of the agreement resolving the referral initiated on November 21, 2005 with the Federal Election Commission ("FEC/Commission") against Jim Gerlach for Congress Committee and Michael DeHaven, Treasurer ("Respondents"). The agreement for ADR 306 (AD 05-24) was approved by the Commission on May 2, 2006 – the effective date of the agreement.

Note that paragraph 13 of the agreement specifies that Respondents shall comply with the terms of this settlement within thirty (30) days of the effective date of the agreement. Please forward to this office, a statement confirming Respondents' compliance with the terms listed in paragraph 10 of the aforementioned agreement. The letter should note the dates on which Respondents satisfied each of the terms listed in paragraph 10.

As you are aware, the settlement agreement 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 entry into settlement 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 Information Office.

This agreement resolves the matter that was initiated by the Commission pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities regarding violations of federal election campaign laws. I appreciate your

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assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

Sincerely,

Lynn M. Fraser, Assistant Director
Alternative Dispute Resolution Office
202-694-1665

Enclosure: Agreement

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**Federal Election Commission
Washington, DC 20463**

Case Number ADR 306

Source AD 05-24

Case Name Jim Gerlach for Congress 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 William Baroni, Esq. and Michael DeHaven, representing the Jim Gerlach for Congress Committee and Michael DeHaven, 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 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. The Audit Division ("Audit") referred Respondents after an audit revealed that the Committee received \$35,021 in excessive contributions. Specifically, the auditors determined excessive contributions totaling \$5,950 were received from two political action committees, and excessive contributions totaling \$29,071 were received from three partnerships and eleven individuals.
4. The FECA requires an authorized committee to accept no more than an aggregate of \$2,000 per election from any one person, or \$5,000 per election from a multicandidate political committee. 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(2)(A), 441a(f) (September 2004), 11 C.F.R. §§ 110.1(a) and (b), 110.2(a)(2)(b), 110.9 (January 1, 2004).
5. The regulations go on to state that the treasurer shall be responsible for examining all contributions received for evidence of illegality, and for ascertaining whether contributions received, when aggregated with other contributions from the same contributor, exceed the contribution limitations. 11 C.F.R. § 103.3(b).

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6. Contributions, which on their face exceed the contribution limitations, and contributions which do not appear to be excessive on their face, but which exceed the contribution limits when aggregated with other contributions from the same contributor, and contributions which cannot be accepted under the net debts outstanding provisions of the regulations, may be either deposited into a campaign depository, or returned to the contributor. If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor. If a redesignation or reattribution is not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution, refund the contribution to the contributor. 11 C.F.R. § 103.3(b)(3)
 7. Any contribution that appears to be illegal, and is deposited into a campaign depository, shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions, or maintain sufficient funds to make all such refunds. 11 C.F.R. § 103.3(b)(4).
 8. If a contribution, which appears to be illegal, is deposited in a campaign depository, the treasurer shall make, and retain a written record, noting the basis for the appearance of illegality. A statement, noting that the legality of the contribution is in question, shall be included in the report noting the receipt of the contribution. If a contribution is refunded to the contributor because it cannot be determined to be legal, the treasurer shall note the refund on the report covering the reporting period in which the refund is made. 11 C.F.R. § 103.3(b)(5).
 9. Respondents acknowledge a violation of FECA, due to inexperienced staff. Respondents contend that the Committee, following the recommendation of the Audit staff, refunded all excessive contributions. In addition, the Committee hired experienced staff, and took numerous steps to provide consistent review, and reconciliation, of contributions and disbursements to prevent this reoccurring.
 10. Respondents, in an effort to avoid similar errors in the future, agree to: (a) appoint a compliance officer; (b) develop a compliance desk manual for use by the staff; and (c) ensure that copies of all negotiated refund checks have been provided to the Commission.
 11. 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.
 12. 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.
 13. This agreement shall become effective on the date signed by all parties and approved by the Commission. Respondents shall comply with the terms within thirty (30) days from the effective date of this agreement.

14. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 306 (A 05-24), and effectively resolves the 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:

Allan D. Silberman, Director
Alternative Dispute Resolution Office


By:


Lynn M. Fraser, Assistant Director
Alternative Dispute Resolution Office

5/02/06

Date Signed

FOR THE RESPONDENTS:


Michael DeHaven
Representing the Jim Gerlach for Congress Committee
and Michael DeHaven, Treasurer

4/18/06

Date Signed

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