



FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, DC 20463

May 25, 2006

Ms. Patsy Keever
Committee to Elect Patsy Keever
17 Braddock Way
Asheville, NC 28803

Re: ADR 309/AD 05-01

Dear Ms. Keever:

Enclosed is the signed copy of the agreement between the Federal Election Commission and the Committee to Elect Patsy Keever and Francis Ellis, Treasurer, resolving the matter that arose from a referral from the FEC's Audit Division relating to the Committee's financial records. The agreement, ADR 309/AD 05-01, was approved by the Federal Election Commission on April 27, 2006 -- the effective date of the agreement.

As you are aware, the settlement agreement will be made part of the record that is released to the public. In addition, as of January 1, 2004, the Commission also will place on the record copies of correspondence exchanged between your office and this office prior to our entry into settlement negotiations and reports prepared by this office to assist the Commission 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 effectively resolves the issues raised in the aforementioned referral relating to the Committee's financial records.

I appreciate your assistance in resolving this matter and helping to bring this case to a mutually satisfactory conclusion.

Sincerely,

Allan D. Silberman,
Director, ADR Office

Enclosure: a/s

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

Case Number: ADR 309

Source: AD 05-01

Case Name: Committee to Elect P. Keever

NEGOTIATED SETTLEMENT

This matter was initiated by the Federal Election Commission ("the Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. Following a review of the record and in an effort to promote compliance with the Federal Election Campaign Act of 1971, as amended ("the FECA" or "Act"), and to resolve this matter, the Commission entered into negotiations with Patsy Keever on behalf of the Committee to Elect Patsy Keever and Francis Ellis, Treasurer (the "Respondents" or the "Committee"). 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 have addressed all the issues raised in this matter. The parties have agreed to resolve the matter according to the following terms:

1. The Commission has entered into this agreement as part of its responsibility for administering the Federal Election Campaign Act and in an effort to promote compliance with the FECA on the part of Respondents. The Commission's use of ADR procedures 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. The Respondents have voluntarily entered into this agreement with the Commission.
3. The Audit Division determined that Respondents received, prior to the primary election of 2004, excessive contributions from twelve individuals in the amount of \$18,890. Copies of the contributors' checks, located by the Audit staff, revealed that the subject checks carried no election designation. In addition, no other supporting documentation regarding the aforementioned contributions was provided. Respondents presumptively redesignated the excessive portions of the subject contributions but did not notify contributors of their actions or offer a refund.
4. No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of the Act or Commission regulations. 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.9 No person shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election for Federal office that, in the aggregate, exceed \$2,000. 2 U.S.C. § 441a(a)(1)(A) and 11 C.F.R. § 110.1(b).
5. 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 may be either deposited into a campaign depository or returned to the contributor. If any such contribution is deposited, the

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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).

6. Any contribution which appears to be illegal and which 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). 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. 11 C.F.R. § 103.3(b)(5).
7. When an authorized political committee receives an excessive contribution from an individual or a non-multicandidate committee, the committee may presumptively redesignate the excessive portion to the general election if the contribution: 1) is made before that candidate's primary election; 2) is not designated in writing for a particular election; 3) would be excessive if treated as a primary election contribution; and 4) as redesignated, does not cause the contributor to exceed any other contribution limit. In addition, the excessive portion of an undesignated contribution made after the primary, but before the general election may be automatically applied to the primary if the campaign's net debts outstanding from the primary equal or exceed the amount redesignated. The committee is required to notify the contributor in writing of the redesignation within sixty days of the treasurer's receipt of the contribution and must offer the contributor the option to receive a refund instead. Presumptive redesignations apply only within the same election cycle. 11 C.F.R. §§ 110.1(b)(5)(ii)(B) and (C).
8. If a political committee chooses to rely on the redesignation presumption or the reattribution presumption, the treasurer shall retain a full-size photocopy of the check or written instrument, of any signed writings that accompanied the contribution, and of the notices sent to the contributors as required. 11 C.F.R. § 110.1(l)(4)(ii).
9. Respondents contend that the Committee was unaware of the procedures for handling excessive contributions or of the Committee's responsibility to notify contributors to reattribute, redesignate or refund excessive contributions. Respondents explained that by the time they were advised of Audit's review, the Candidate had already donated much of the excess campaign funds. However, in order to comply with Audit's recommendations, the Committee refunded to contributors \$14,140 from the campaign account.
10. In order to conclude this matter, Respondents agree to: 1) provide copies of checks for the \$14,140 refunded to contributors and bank statements confirming that the checks have been processed; 2) provide copies of checks for approximately \$4,760 made payable to the remaining contributors from the Candidates' personal account and of bank statements confirming the processing of the aforementioned checks; and 3) to file for termination.
11. The parties agree that if the Respondents fail to comply with the terms of this

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settlement, the Commission may undertake civil action in the U.S. District Court for the District of Columbia to secure compliance.

12. This agreement will become effective on the date signed by the parties and approved by the Commission.

13. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 309/AD 05-01 and effectively resolves this matter. No other statement, promise or Agreement, written or oral, made by either party, not included in herein, shall be enforceable.


FOR THE COMMISSION:

Allan D. Silberman,
Director Alternative Dispute Resolution Office


Allan D. Silberman

May 24, 2006
Date

FOR THE RESPONDENTS:


Patsy Keever for the Committee to Elect
Patsy Keever and Francis Ellis, Treasurer

4-19-06
Date

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