



Federal Election Commission
Washington, DC 20463

August 15, 2016

Cleta Mitchell, Esq.
Foley & Lardner LLP
3000 K Street, NW Suite 600
Washington, DC 20007-5109

Re: ADR 798 (RAD 16L-04)
Cotton for Senate and Theodore V. Koch, Treasurer

Dear Ms. Mitchell:

Enclosed is the signed copy of the agreement resolving the referral initiated on March 18, 2016 by the Federal Election Commission ("FEC/Commission") involving Cotton for Senate and Theodore V. Koch, Treasurer ("Respondents"). The agreement for ADR 798 (RAD16L-04) was approved by the Commission on August 10, 2016 – the effective date of the agreement.

Note the specific time frames for compliance in paragraph 7 of the agreement. **Please forward to this office, a statement certifying Respondent's compliance with the terms listed in the aforementioned agreement.** The letter should note the dates on which Respondents satisfied each of the terms listed in paragraph 6, and contain the ADR caption and case number. **The civil penalty payment should be sent to the attention of the Accounting/Finance Office of the FEC. The civil penalty under the agreement is due on or before September 10, 2016.¹ Please put the ADR case number on the civil penalty check as well, to ensure crediting to the correct case.**

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.

¹ Please note, if the Commission refers an unpaid civil penalty to the US Treasury or third party collection agent, additional costs and fees will be assessed.

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

Sincerely,

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

Enclosure: Agreement

cc: Gwen Holmes and Nida Awan, Finance and Accounting Office
Room 819



Federal Election Commission
Washington, DC 20463

Case Number: ADR 798
Source: RAD 16L-04
Case Name: Cotton for Senate

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 Cleta Mitchell, Esq., representing Cotton for Senate and Theodore V. Koch, in his official capacity as 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 issue raised in this referral. The parties agree to resolve the matter according to the following terms:

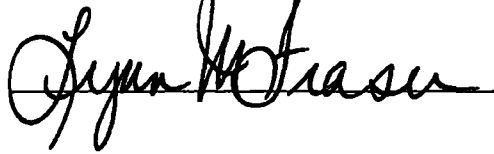
1. The Commission entered into this agreement as part of its responsibility for administering the FECA, and in an effort to promote compliance on the part of Respondents. The Commission's use of alternative dispute resolution procedures (ADR) is guided by "The Administrative Dispute Resolution Act of 1996," 5 U.S.C. § 572 and is an extension of 52 U.S.C. § 30109.
2. Respondents voluntarily enter into this agreement with the Commission.
3. The Reports Analysis Division (RAD) referred Respondents for failing to disclose all receipts on its original 2014 30 Day Post-General Report. The Committee filed Amended 2014 30 Day Post-General Reports on January 30, 2015, April 15, 2015 and a final amended report on October 19, 2015 that disclosed additional receipts of \$155,050.
4. Treasurers of political committees are required to report all financial activity, including all receipts, pursuant to the FECA. 52 U.S.C. §§ 30104(a)(1), 30104(b)(2), 11 C.F.R. §§ 104.1, 104.3(a).
5. In a FEC Form 99 filed January 13, 2016, the Committee states, in part, that after conducting an internal audit, it was determined that an amended report needed to be filed. " ... Specifically, it was determined that a \$150,000 vendor refund was more properly disclosed on the 2014 30-Day Post General Report than on the 2014 Year-End Report. Also, on the 2014 30-Day Post General Report, there were two previously unidentified online credit card contributions that amount to \$5,200 and a chargeback of -\$150 that was

disclosed." Respondents contend that the Commission would not have known about the error in the date if the Committee had not completed an audit of its financial records. It was during the course of this voluntary internal review of all accounting entries for the prior two years that the Committee discovered that the date on which the vendor refund had been posted was incorrect. The Committee corrected the date on which the vendor refund was posted, amended its reports accordingly, and *sua sponte* advised the Commission of the error.

6. Additionally, Respondents asserted that they terminated the vendors and consultants responsible for the reporting errors related to the 2014 cycle, and retained a new compliance team. The Committee's current compliance team has rebuilt the Committee's accounting systems, and now reconciles the banking and financial activities of the Committee on an ongoing basis, including all receipts and expenditures, and has amended all errors in reports filed with the Commission by the prior consultants. The Committee completely overhauled its compliance systems in the third quarter of 2015 to ensure that no similar errors occur in the future.
7. Respondents, in an effort to resolve this matter agree to: (a) develop and certify implementation of a compliance operations manual which includes internal controls consistent with those described in the Commission's Internal Controls and Political Committees advisory document (2007) and the Best Practices for Committee Management (published in the April 2009 Record, available at www.fec.gov/pages/brochures/bestpractices.shtml), as well as a process to track receipt of, and response to, communications with the Commission within ninety (90) days of the effective date of this agreement; and (b) pay a civil penalty of \$2,000 within thirty (30) days of the effective date of this agreement.
8. 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.
9. The parties agree that if Respondents fail to comply with the terms of this settlement, the Commission may submit any unpaid civil penalty to the U.S. Treasury for collection or undertake civil action in the U.S. District Court for the District of Columbia to secure compliance.
10. This agreement shall become effective on the date signed by all parties and approved by the Commission. Respondents shall comply with the terms of this agreement as set out in paragraph 7 above, and shall certify compliance with the above settlement terms in writing to the Alternative Dispute Resolution Office on or before the date each term becomes due.
11. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 798 (RAD 16L-04), and resolves those 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:

Lynn M. Fraser, Director
Alternative Dispute Resolution Office



8-10-16

Date Signed

FOR THE RESPONDENTS:



Cleta Mitchell, Esq.
Representing Cotton for Senate and
Theodore V. Koch, Treasurer

June 6, 2016

Date Signed