



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 3, 2018

Joseph Birkenstock
1025 Vermont Ave, NW, Suite 300
Washington, DC 20005

Re: ADR 826
AMEDISYS, INC PAC and SCOTT LEVY, Treasurer

Dear Joseph Birkenstock:

Enclosed is the signed copy of the Negotiated Settlement resolving the above-shown matter. The Negotiated Settlement was approved by the Commission on Tue 1/2/2018 – the effective date of the agreement.

Note the specific time frames for compliance detailed in the agreement. Please forward to this office, a statement confirming Respondent's compliance with each term. The letter should note the dates on which Respondents satisfied each of the terms and contain the ADR case number. For your convenience, a compliance chart is attached.

As you are aware, the Negotiated Settlement 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 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 Records Office.

This agreement resolves this matter. I appreciate your assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

Sincerely,

A handwritten signature in cursive script that reads "Krista J. Roche".

Krista J. Roche
Acting Director
Alternative Dispute Resolution Office

Enc: Compliance Chart
Negotiated Settlement



Federal Election Commission
Washington, DC 20463

Case Number: ADR 826
Source: P-MUR 596
Case Name: Amedisys, Inc.
and Amedisys Inc. PAC

NEGOTIATED SETTLEMENT

This matter was initiated by the Federal Election Commission (Commission) pursuant to a self-referral of the underlying issues, through counsel, by the Respondents. 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 Joseph M. Birkenstock, Esq., representing Amedisys, Inc. (the Company), Amedisys, Inc. Political Action Committee (the Committee), and Scott Levy, in his official capacity 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 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 guided by "The Administrative Dispute Resolution Act of 1996," 5 U.S.C. § 572 and is an extension of 52 U.S.C. § 30109 (formerly 2 U.S.C. § 437g).
2. Respondents voluntarily enter into this agreement with the Commission.
3. Respondents filed a *sua sponte* submission dated August 26, 2016, to disclose an unauthorized disbursement of \$79,640 and the failure to disclose an equivalent amount of receipts from payroll deductions on the 2013 December Monthly Report. In addition, Respondents acknowledge in the submission the Company's failure to transfer payroll deductions to the Committee in a timely manner, along with the Committee's failure to ensure the timely transfer of those deductions.
4. Treasurers of political committees are required to report all financial activity, including all receipts and disbursements, pursuant to the FECA. 52 U.S.C. §§ 30104(b)(2) and (4), 11 C.F.R. §§ 104.3(a) and (b).
5. A collecting agent who receives a contribution shall forward such contribution to the treasurer no later than 30 days after receipt for contributions of \$50 or less and no later than 10 days after receipt for contributions in excess of \$50. 52 U.S.C. § 30102(b)(2) and 11 C.F.R. §§ 102.8(b)(1) and (2). Separate segregate funds are

responsible for ensuring that collecting agents meet recordkeeping, reporting, and transmittal requirements. 11 C.F.R. § 102.6(c)(1).

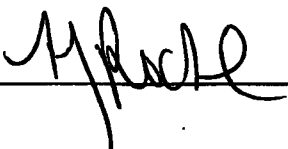
6. In the *sua sponte* submission, Respondents contend that it was discovered that an employee of Amedisys, Inc. transferred \$85,000 in payroll deductions to the Committee, reporting only \$5,360 of that amount as receipts and issuing a check for \$79,640 to a fictitious business entity that he controlled. Respondents contend that in response to this discovery, a comprehensive analysis of financial activity was performed, a new treasurer and assistant treasurer were appointed, and new internal controls were implemented, including new tracking systems for receipts and disbursements. Following the submission of the *sua sponte* filing, Respondents indicate that the employee in question was convicted of wire fraud and sentenced to prison in connection with this and other crimes committed against the company.¹
7. With regard to the failure to timely transfer payroll deductions, the Company acknowledges that it had no specific policy for transferring the proceeds of payroll deductions to the Committee's account, and did not impose any consistent practice for such transfers. The Company has since instituted a policy to transfer payroll deductions at least monthly, and within ten days if and when it receives any single payroll deduction contribution of over \$50.
8. Respondents, in an effort to avoid similar errors in the future, agree to:
 - a) develop and certify implementation of 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) within thirty (30) days of the effective date of this agreement;
 - b) amend the 2013 December Monthly to include the previously undisclosed payroll deduction receipts as well as the unauthorized disbursement within thirty (30) days of the effective date of this agreement;
 - c) provide confirmation that the internal control procedures have been followed consistently one (1) year from the effective date of this agreement; and
 - d) provide confirmation that payroll deductions have been timely transferred to the Committee per Company policy one (1) year from the effective date of this agreement.
9. 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.
10. 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.

¹ See <https://www.justice.gov/usao-mdla/pr/former-vice-president-health-care-company-sentenced-prison-fraud-scheme-worth-over-75> (last accessed Sept. 22, 2017).

11. 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 8 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.
12. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 826 (P-MUR 596), 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:

Krista J. Roche, Assistant Director
Alternative Dispute Resolution Office



11/3/18
Date Signed

FOR THE RESPONDENTS:



Joseph M. Birkenstock, Esq.
Representing Amedisys, Inc., Amedisys, Inc. Political
Action Committee and Scott Levy, Treasurer

9/27/17

Date Signed