



**Federal Election Commission
Washington, DC 20463**

September 1, 2004

Neil Reiff, Esq.
Sandler, Reiff & Young, PC
50 E Street S.E., Suite 300
Washington, DC 20003

Re: ADR 175
Democratic Party of Arkansas and Marcus Vaden, Treasurer

Dear Mr. Reiff:

Enclosed is the signed copy of the agreement resolving the audit referral filed May 26, 2004 at the Federal Election Commission (FEC/Commission) against the Democratic Party of Arkansas and Marcus Vaden, Treasurer ("Respondents"). The agreement, ADR 175 (AR 04-05) was approved by the Commission on August 27, 2004, the effective date of the agreement.

Note that paragraph 6 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 (with the exception of term (a) which allows Respondents up to twelve months to attend an FEC seminar). Please forward to this office, a statement confirming Respondents' compliance with the terms listed in paragraph 6 of the aforementioned agreement. The letter should note the dates on which Respondents satisfied each of the terms listed in paragraph 6.

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 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 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

0855.528.61.42
24.19.025.3588



**Federal Election Commission
Washington, DC 20463**

Case Number: ADR 175
Source AR 04-05
Case Name Democratic Party of Arkansas
and Marcus Vaden, Treasurer

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/Act") and resolve this matter, the Federal Election Commission ("Commission") entered into negotiations with Neil Reiff, Esq., representing the Democratic Party of Arkansas ("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. An audit of the 1999-2000 reports and records of the Democratic Party of Arkansas and Marcus Vaden, Treasurer ("Respondents") revealed that the committee accepted 194 filing fees from persons seeking non-federal offices, and deposited the fees into its federal account. Respondents did not deposit these questionable funds into a separate account; however, Audit staff indicated that Respondents consistently maintained sufficient funds in the federal accounts to transfer the filing fees to the non-federal accounts, except for the month of March 2000. The checks for these non-federal filing fees were drawn on personal accounts, raising the possibility that the personal accounts could have been reimbursed with impermissible funds. These funds did not pass through to the

State, but were retained in one of Respondents' federal accounts and used for operating expenses. In addition, the filing fees were reported as contributions from "Individuals/Persons Other Than Political Committees." In response to the interim audit report, Respondents provided documentation demonstrating that individuals seeking non-federal offices who paid filing fees from their personal accounts were not reimbursed by their committees with prohibited monies for all but thirty-four (34) of the filing fees in question. The total for the thirty-four questionable contributions was \$34,019.

4. The FECA prohibits a committee from accepting contributions from corporations, labor organizations or national banks, 2 U.S.C. § 441b, from federal government contractors, 2 U.S.C. § 441c, from foreign nationals, 2 U.S.C. § 441e, or contributions made in the name of another, 2 U.S.C. § 441f. Federal regulations state that payments made to any party committee by a candidate or the authorized committee of a candidate as a condition of ballot access are not contributions. 11 C.F.R. § 100.7(b)(18) (2002). Committees which finance political activity in connection with both federal and non-federal elections must establish a separate federal account which shall comply with the requirements of the FECA, and only funds subject to the prohibitions and limitations of the Act shall be deposited in the federal account. 11 C.F.R. § 102.5(a)(1)(i).
5. Respondents acknowledge that a violation of the FECA occurred. Respondents demonstrated that all but thirty-four (34) of the assessments paid by individuals seeking non-federal offices who paid filing fees from their personal accounts and deposited in Respondents' federal account, were not reimbursed by their committees with prohibited monies. The total of those thirty-four filing fees, \$34,019, was transferred to Respondents' non-federal account, and amended reports were filed with the Commission.
6. Respondents, in an effort to avoid similar errors in the future, agree to: (a) attend an FEC seminar within twelve (12) months; (b) develop and use a ballot access form to ensure that the ballot access fees are accurately identified; and (c) pay a civil penalty of \$1,000.
7. 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.
8. 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.

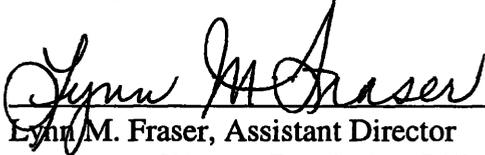
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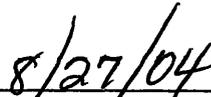
9. This agreement shall become effective on the date signed by all parties and approved by the Commission. Respondents shall comply with the terms of the settlement within thirty (30) days from the effective date of this agreement.
10. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 175 (AR 04-05), 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

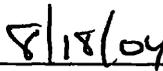
By:


Lynn M. Fraser, Assistant Director
Alternative Dispute Resolution Office


Date Signed

FOR THE RESPONDENTS:


Neil Reiff, Esq.
Counsel for the Democratic Party of Arkansas
and Marcus Vaden, Treasurer


Date Signed

24-19-025-334



Federal Election Commission
Washington, DC 20463

MEMORANDUM

TO: The Commission

THROUGH: James A. Pehrkon
Staff Director

FROM: Allan D. Silberman
Director, ADR Office

BY: Lynn M. Fraser
Assistant Director, ADR Office

SUBJECT: Negotiated Settlement ADR 175
Democratic Party of Arkansas and Marcus Vaden, Treasurer

DATE: August 18, 2004

Attached for your review is a signed agreement for ADR 175 (AR 04-05) - Respondents Democratic Party of Arkansas and Marcus Vaden, Treasurer. This case originated with a referral from Audit on June 4, 2004 and was assigned to the ADR Office on June 21, 2004.

ADR 175: An Audit of the 1999-2000 reports and records of the Democratic Party of Arkansas and Marcus Vaden, Treasurer ("Respondents") revealed that the committee accepted 194 filing fees from persons seeking non-federal offices, and deposited the fees into its federal account. Respondents did not deposit these questionable funds into a separate account; however, Audit staff indicated that Respondents consistently maintained sufficient funds in the federal accounts to transfer the filing fees to the non-federal accounts, except for the month of March 2000. The checks for these non-federal filing fees were drawn on personal accounts, raising the possibility that the personal accounts could have been reimbursed with impermissible funds. These funds did not pass through to the State, but were retained in one of Respondents' federal accounts and used for operating expenses. In addition, the filing fees were reported as contributions from "Individuals/Persons Other Than Political Committees." In response to the interim audit report, Respondents provided documentation demonstrating that individuals seeking non-federal offices who paid filing fees from their personal accounts were not reimbursed by their committees with prohibited monies for all but thirty-four (34) of the filing fees in question. The total for the thirty-four questionable contributions was \$34,019.

ADR Director's Recommendation: We recommend that the Commission approve the negotiated settlement for ADR 175, and that we subsequently close the file on this matter and send the appropriate letters.