

RECEIVED

**HOLTZMAN VOGEL JOSEFIK PLLC**  
Attorneys at Law

2012 DEC -3 AM 10:30

FEC MAIL CENTER  
11 North Hill Drive  
Suite 100  
Warrenton, VA 20186  
p/540-341-8808  
f/540-341-8809

November 30, 2012

Bradley Matheson  
Senior Campaign Finance Analyst  
Reports Analysis Division  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

**Re: The Common Sense Movement's 2012 July Quarterly Report**

Dear Mr. Matheson:

This letter is submitted by the undersigned counsel on behalf of The Common Sense Movement (C90013061) in response to your September 27, 2012 Request For Additional Information regarding CSM's 2012 July Quarterly Report. The first item in the RFAI is a request that CSM amend its report to include identifying information of "contributor(s)." The second item is a request for clarification regarding the timeliness of reporting an independent expenditure. As explained in detail below, CSM is confident that its 2012 July Quarterly Report is accurate as filed, and that no additional reporting or amendment is necessary for compliance with FEC reporting regulations.

CSM respectfully disagrees with the assertion that there is any additional reporting required to include "missing information." The RFAI cites to 11 CF.R. § 109.10(e)(1)(vi) and explains that: "Each contributor who made a donation in excess of \$200 used to fund the independent expenditure(s) must be itemized on Schedule 5-A, including their identification information." However, the question of reporting requirements presented by this regulation is *not* how an organization subsequently chooses to use a contribution, but whether the contribution was given "for the purpose of furthering the reported independent expenditure."<sup>1</sup> No contributions accepted by CSM were solicited or received "for the purpose of furthering the

---

<sup>1</sup> See also Statement of Reasons of Commissioners Matthew S. Petersen, Caroline C. Hunter, and Donald F. McGahn in MUR 6002 (Freedom Watch, Inc.) at 5 ("In other words, a donation must be itemized on a non-political committee's independent expenditure report only if such donation is made for the purpose of paying for the communication *that is the subject of the report.*" (emphasis in original)).

01629665071

reported independent expenditure.” Accordingly, no contributions were required to be reported under the regulations cited in the RFAI.

CSM understands the applicable reporting regulations<sup>2</sup>. Should CSM receive any contributions that must be reported pursuant to 11 C.F.R. § 109.10(e)(1)(vi), those contributions will be reported as required.

With respect to the second item in the RFAI, CSM filed a May 9, 2012 *sua sponte* submission notifying the FEC of late filing for the 24-hour report at issue. The *sua sponte* submission was resolved by agreement between CSM and the FEC, effective July 19, 2012. (Negotiated Settlement resolving ADR 619) (*attached*). A copy of the agreement resolving the matter is attached to address your request for clarification regarding the timeliness of CSM’s 24-hour reporting.

CSM trusts that this explanation and clarification will satisfy all concerns raised in the September 27<sup>th</sup> RFAI. Please do not hesitate to contact me if there is any further information that I may provide.

Sincerely,



Jason Torchinsky  
Chris Winkelman  
Counsel to The Common Sense Movement

---

<sup>2</sup> The RFAI also includes citation to 11 C.F.R. § 114.10(f), which applies to “qualified nonprofit corporations.” CSM is not, and has never presented itself as, a “qualified nonprofit corporation.” Thus, by its own terms, the cited provision is inapplicable to CSM.

12030962971



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

July 19, 2012

Jason Torchinsky, Esq.  
P. Christopher Winkelman, Esq.  
Holtzman Vogel Josefiak PLLC  
45 North Hill Drive, Suite 100  
Warrenten, VA 20186

Re: ADR 619 (PMUR 536)  
The Common Sense Movement

Dear Mr. Torchinsky and Mr. Winkelman:

Enclosed is the signed copy of the agreement resolving the *sua spontae* submission dated May 9, 2012 received by the Federal Election Commission (FEC/Commission) on behalf of The Common Sense Movement (Respondent). The agreement for ADR 619 (PMUR 536) was approved by the Commission on July 19, 2012 – the effective date of the agreement.


Note the specific time frames for compliance in paragraph 6 of the agreement. Please forward to this office, a statement confirming Respondent's compliance with the terms listed in paragraph 6 of the aforementioned agreement. The letter should note the dates on which Respondent satisfied each of the terms listed in paragraph 6 and contain the ADR caption and case number.

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 *sua spontae* submission 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 issues involved in the *sua spontae* submission. I appreciate your assistance in effectively resolving this matter and bringing the case to a mutually acceptable conclusion.

12030962972

Sincerely,

  
Krista J. Roche, Assistant Director  
Alternative Dispute Resolution Office

Enclosure: Agreement

cc: Gwendolyn Holmes, Finance

12030962973



Federal Election Commission  
Washington, DC 20463

Case Number: ADR 619  
Source: P-MUR 536  
Case Name: The Common Sense Movement

**NEGOTIATED SETTLEMENT**

This matter was initiated by a *sua sponte* submission filed on May 9, 2012. 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 Federal Election Commission (Commission) entered into negotiations with Jason Terchinsky, Esq. representing The Common Sense Movement, (Respondent). 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 Respondent addressed the issues raised in this *sua sponte* submission. The parties agree to resolve the matter according to the following terms:

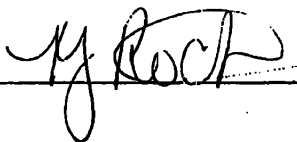
1. The Commission entered into this agreement as part of its responsibility for administering the FECA, and in an effort to promote compliance on the part of Respondent. The Commission's use of alternative dispute resolution procedures (ADR) is guided by "The Administrative Dispute Resolution Act of 1996," 5 U.S.C. § 572 and is an extension of 2 U.S.C. § 437g.
2. Respondent voluntarily enters into this agreement with the Commission.
3. The Office of the General Counsel referred Respondent for violations disclosed in a *sua sponte* submission dated May 9, 2012. In that submission Respondent disclosed the failure to timely file a 24-Hour Notice for an independent expenditure totaling \$29,760 for a television ad that aired from April 17-22, 2012. According to the *sua sponte* submission, the television ad at issue also failed to include the statement "Common Sense Movement is responsible for the content of this advertising."
4. A person, including a political committee, that makes or contracts to make independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours. 2 U.S.C. § 434(g), 11 C.F.R. § 104.4(c). All public communications for which an independent expenditure only group makes a payment must include a disclaimer, and television advertisements must include a declaration of who is responsible for the content of the advertising. 2 U.S.C. § 441d, 11 C.F.R. § 110.11(c)(4).

12030962974

5. Respondent contends that on May 7, 2012, as soon as the oversight was uncovered, the proper FEC form was filed. Respondent further contends that the error was uncovered after a thorough review of the group's activities.
6. Respondent, in an effort to avoid similar errors in the future, agrees to: (a) designate a compliance specialist within thirty (30) days of the effective date of this agreement; (b) circulate a written policy and procedure document detailing the proper reporting of independent expenditures and disclaimer requirements within thirty (30) days of the effective date of this agreement; and (c) pay a civil penalty of \$1,500 within thirty (30) days of the effective date of this agreement.
7. Respondent agrees that all information provided to resolve this matter is true and accurate to the best of its knowledge and that its representative signs this agreement under penalty of perjury pursuant to 28 U.S.C. § 1746.
8. The parties agree that if Respondent fails 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.
9. This agreement shall become effective on the date signed by all parties and approved by the Commission. Respondent shall comply with the terms of this agreement as set out in paragraph 6 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.
10. This Negotiated Settlement constitutes the entire agreement between the parties on ADR 619 (P-MUR 536), 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.

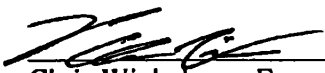
FOR THE COMMISSION:

Krista J. Roche, Assistant Director  
Alternative Dispute Resolution Office

  
\_\_\_\_\_

  
\_\_\_\_\_  
Date Signed

FOR THE RESPONDENT:

  
\_\_\_\_\_  
Chris Winkelman, Esq.  
Representing The Common Sense Movement

  
\_\_\_\_\_  
Date Signed

12030962975

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
The Common Sense Movement (Pre- ) ADR 619  
MUR 536) )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on July 19, 2012, the Commission decided by a vote of 6-0 to take the following actions in ADR 619/Pre-MUR 536:

1. Approve the settlement agreement of The Common Sense Movement, as recommended in the Memorandum from the Chief Compliance Officer and the Director, ADR Office dated July 9, 2012.
2. Approve the appropriate letters.
3. Close the file on this matter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

July 19, 2012  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

12030962976

Federal Election Commission  
**ENVELOPE REPLACEMENT PAGE FOR INCOMING DOCUMENTS**  
 The FEC added this page to the end of this filing to indicate how it was received.

Hand Delivered Date of Receipt

USPS First Class Mail Postmarked

USPS Registered/Certified Postmarked (R/C)

USPS Priority Mail Postmarked  
 Delivery Confirmation™ or Signature Confirmation™ Label

USPS Express Mail Postmarked

Postmark Illegible

No Postmark

Overnight Delivery Service (Specify): *Fed. Ex<sup>o</sup>* Shipping Date  
*11/30/12*  
 Next Business Day Delivery

Received from House Records & Registration Office Date of Receipt

Received from Senate Public Records Office Date of Receipt

Received from Electronic Filing Office Date of Receipt

Other (Specify): Date of Receipt or Postmarked

*Jmp*  
 PREPARER  
 (3/2005)

*12/3/12*  
 DATE PREPARED

12030992977