

J. S. 11

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 Cannon for Congress and Christopher B.) MUR 6235
 Cannon, in his official capacity as)
 treasurer (Pre-Probable Cause)
 Conciliation Agreement))

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CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on May 24, 2011, the Commission decided by a vote of 5-1 to take the following actions in MUR 6235:

1. Accept the conciliation agreement with Cannon for Congress and Christopher Cannon, in his official capacity as treasurer, as recommended in the General Counsel's Memorandum dated March 23, 2011.
2. Approve the appropriate letters.
3. Close the file.

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

Attest:

7 May 25, 2011
 Date

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

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

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MEMORANDUM

TO: The Commission

FROM: Christopher Hughey
Acting General Counsel

Kathleen Guith
Acting Associate General Counsel for Enforcement

BY: Roy Q. Luckett *RQL*
Acting Assistant General Counsel

Joshua B. Smith *JS*
Attorney

SUBJECT: MUR 6235 (Cannon for Congress)

RE: Pre-Probable Cause Conciliation Agreement

BACKGROUND

On December 1, 2009, the Commission found reason to believe that Cannon for Congress and Lynn Gilbert, in his official capacity as treasurer ("the Committee"), violated 2 U.S.C. § 441a(f) by knowingly accepting \$75,300 in contributions designated for the general election from individuals and multicandidate committees that had already contributed the maximum amount allowable for the 2008 primary election, which became excessive as of the date the candidate lost the primary. The Commission also found reason to believe that the Committee violated 11 C.F.R. §§ 102.9(e)(3), 110.1(b)(3)(i), and 110.2(b)(3)(i) by failing to refund, redesignate, or reattribute \$38,696.50 in contributions designated for the general election, including contributions designated for the general election from contributors who did not contribute the maximum allowable for the 2008 primary election. The Commission authorized entering into pre-probable cause conciliation,

1 **DISCUSSION**

2 Attached is a signed conciliation agreement negotiated with Cannon for Congress and
3 Christopher Cannon, in his official capacity as treasurer. Attachment 1. The agreement would
4 settle the Committee's violations of 2 U.S.C. § 441a(f) and 11 C.F.R. §§ 102.9(e)(3),
5 110.1(b)(3)(i), and 110.2(b)(3)(i) in connection with its receipt of excessive contributions and
6 failure to refund or redesignate such contributions within 60 days after the primary election. The
7 agreement provides for a civil penalty of \$5,000. Respondents have already provided a check
8 made out for the full amount, a copy of which is attached. Attachment 2.
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34 • The agreement contains language clarifying that Christopher Cannon, the
35 Committee's current treasurer, was not the treasurer during the time of the violations,
36 and is named in his official capacity because he is the Committee's current treasurer.
37 See Signed Conciliation Agreement, at ¶ IV.10.

38 • _____ the Committee
39 discovered that it accepted a total of \$83,596.50 in both undesignated contributions

1 that could have been designated for the 2008 Republican convention, and
2 contributions designated for the 2008 general election that could have been
3 redesignated to the convention. The Committee also demonstrated that it accepted
4 \$30,400 in excessive contributions that could not have been redesignated to the
5 convention election or where the contributor objected to redesignation. See Signed
6 Conciliation Agreement, at ¶ IV.13-14.

7 • [redacted] the Committee redesignated contributions totaling \$32,096.50.
8 See Signed Conciliation Agreement, at ¶ IV.15. The Committee has agreed to send a
9 final redesignation letter with respect to the remaining \$51,500 in eligible
10 contributions received from multi-candidate committees. See Signed Conciliation
11 Agreement, at ¶ VI.4.

12 [redacted] the agreement provides that the Committee will pay
13 a civil penalty of \$5,000,¹

14 [redacted]
15 [redacted]
16 [redacted]
17 [redacted] The Committee currently reports a
18 cash-on-hand total of \$594.32. Further, the Committee currently reports outstanding debts and
19 obligations totaling \$194,502.38 and candidate loans totaling \$137,962.50. Moreover, two Utah
20 state courts recently ordered Mr. Cannon to pay campaign vendors \$110,000 in debt owed from
21 the 2008 election cycle.¹
22 [redacted]
23 [redacted]
24 [redacted]
25 [redacted]
26 [redacted]
27 [redacted]

28 [redacted] the agreement
29 also states that if Mr. Cannon runs for federal office in the future, he will cause his authorized
30 committee to set aside an additional \$15,000 to be paid as a civil penalty, and will refund or
31 disgorge to the U.S. Treasury the \$30,400 in excessive contributions. See Signed Conciliation
32 Agreement, at ¶ VI.2; see also MUR 6230 (Wynn for Congress) (Commission approved
33 conciliation agreement with possible future civil penalty and refund/disgorgement provision,
34 [redacted])

35 In sum, we believe this negotiated settlement represents a reasonable compromise under
36 the circumstances. Therefore, we recommend that the Commission accept the conciliation
37 agreement, approve the appropriate letters, and close the file.

¹ See Lee Davidson and Donald W. Meyers, *Cannon haggles over \$110,000 in old campaign debts*, THE SALT LAKE TRIBUNE, January 20, 2011, <http://goo.gl/iMC21>.

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1 **RECOMMENDATIONS**

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1. Accept the attached conciliation agreement with Cannon for Congress and Christopher Cannon, in his official capacity as treasurer;
2. Approve the appropriate letters;
3. Close the file.

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