

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 6230
 Wynn for Congress and Curt Clifton, in)
 his official capacity as treasurer)

CERTIFICATION

I, Darlene Harris, recording secretary for the Federal Election Commission executive session on May 25, 2010, do hereby certify that the Commission decided by a vote of 6-0, on an amended pre-meeting tally, to take the following actions in MUR 6230:

1. Accept the conciliation agreement as to Wynn for Congress and Curt Clifton, in his official capacity as Treasurer, as recommended in the General Counsel's Memorandum dated March 25, 2010.
2. Approve the appropriate letters.
3. Close the file.

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

Attest:

May 28, 2010
 Date

Darlene Harris
 Darlene Harris
 Acting Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JUN 14 2010

Scott E. Thomas
Dickstein Shapiro LLP
1825 Eye Street NW
Washington, DC 20006-5403

RE: MUR 6230
Wynn for Congress and
Curt Clifton, in his official capacity
as treasurer

Dear Mr. Thomas:

On May 25, 2010, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of a violation of U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), and 11 C.F.R. §§ 102.9(e)(3), 110.1(b)(3)(i), and 110.2(b)(3)(i) of the Commission's regulations. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the initial payment of \$5,000 (Five Thousand Dollars) of the civil penalty is due within 24 hours of final execution of the conciliation agreement. The remainder will be paid in six (6) installments of \$500 (Five Hundred Dollars) each, starting on the last business day of the month following the month this agreement is executed and continuing on the last business day of the six (6) succeeding months. If you have any questions, please contact me at (202) 694-1624.

Sincerely,

Joshua B. Smith
Attorney

Enclosure:
Conciliation Agreement

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RECEIVED
FEDERAL ELECTION
COMMISSION
BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of

Wynn for Congress and
Curt Clifton, in his official capacity as treasurer

OFFICE OF GENERAL
) COUNSEL
) MUR 6230
)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission, ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Wynn for Congress and Curt Clifton, in his official capacity as treasurer, ("Respondents") violated 2 U.S.C. § 441a(f) of the Federal Election Campaign Act of 1971, as amended ("the Act") and 11 C.F.R. §§ 102.9(e)(3), 110.1(b)(3)(i), and 110.2(b)(3)(i) of the Commission's regulations.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).
- II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondents enter voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:

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1. Wynn for Congress is the principal campaign committee for Albert Wynn's 2008 Congressional race. Wynn for Congress is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Curt Clifton has been the treasurer of Wynn for Congress since October 15, 2008. During the relevant period of the 2008 campaign, Gregory Holloway was the treasurer.

3. Albert Wynn lost the primary election on February 12, 2008.

4. At the time this activity occurred, the Act prohibited persons from making contributions to any candidate and his authorized political committee with respect to any election for federal office which, in the aggregate, exceed \$2,300. 2 U.S.C. § 441a(a)(1)(A).

5. The Act prohibits any multicandidate political committee from making contributions to any candidate and his authorized political committee with respect to any election for federal office which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(2)(A).

6. The Act prohibits any candidate or political committee from knowingly accepting any contributions that exceed the limits established by 2 U.S.C. § 441a. 2 U.S.C. § 441a(D).

7. A committee may accept contributions that are designated for use in connection with the general election prior to the date of the primary election if the committee employs an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. 11 C.F.R. § 102.9(c)(1).

8. An authorized committee's records must demonstrate that, prior to the primary election, recorded cash on hand was at all times equal to or in excess of the sum of general election contributions received less the sum of general election disbursements made. 11 C.F.R. § 102.9(c)(2).

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9. If a candidate is not a candidate in the general election, a committee shall return, refund to the contributors, redesignate in accordance with 11 C.F.R. § 110.1(b)(5), or reattribute in accordance with 11 C.F.R. § 110.1(k)(3), any contributions designated for the general election within 60 days of the primary election. 11 C.F.R. §§ 102.9(e)(3), 110.1(b)(3)(i), and 110.2(b)(3)(i), AO 1992-15.

10. If a candidate fails to qualify for the general election, any contributions designated for the general election that have been received from contributors who have already reached their contribution limit for the primary election would exceed FECA's contribution limits. AO 2007-03.

11. Respondent's Amended 2008 campaign reports disclosed to the Commission that it accepted \$115,100 in contributions designated for the 2008 general election, before the primary election on February 12, 2008, consisting of \$41,600 from twenty-two individuals and \$73,500 from twenty-four PACs.

12. Respondents did not employ an accounting method to distinguish between contributions received for the primary election and contributions received for the general election, and they used general election funds to pay for primary election costs.

13. Respondents could not redesignate the general election contributions to the 2008 primary election because all of the general election contributors had already contributed the maximum amount allowable for the primary election.

14. Respondents could not reattribute the general election contributions because reattribution would not remedy the Respondents' acceptance of contributions designated for an election in which Wynn was not participating.

15. Respondents did not refund the general election contributions within 60 days of the primary election, and have not done so to date.

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V. Respondents committed the following violations:

1. Respondents violated 2 U.S.C. § 441a(f) by accepting \$115,100 in general election contributions 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.

2. Respondents violated 11 C.F.R. §§ 102.9(e)(3), 110.1(b)(3)(i), and 110.2(b)(3)(i) by failing to refund or return \$115,100 in excessive contributions.

VI. Respondents will take the following actions:

1. In ordinary circumstances, the Commission would seek a substantially higher civil penalty based on the violations outlined in this agreement. However, the Commission is taking into account the fact that the Committee is defunct, has no cash on hand according to the evidence available, and has a limited ability to raise any additional funds. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Eight Thousand Dollars (\$8,000), pursuant to 2 U.S.C. § 437g(a)(5)(A), divided as follows:

- (a) An initial payment of \$5,000 within 24 hours of final execution of this agreement;
- (b) The remainder will be paid in six (6) installments of Five Hundred Dollars each, starting on the last business day of the month following the month this agreement is executed and continuing on the last business day of the six (6) succeeding months.

2. Respondents will convey a copy of the agreement to former Congressman Wynn, who has verified to Respondents that, in the event he ever decides to run for federal office again, he will cause his authorized committee to set aside an additional \$12,000 in campaign proceeds and pay that amount as an additional civil penalty relating to the matter herein, as well

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as refund to the contributors, or in the alternative, disgorge to the U.S. Treasury, the \$115,100 in excessive contributions identified herein as received in violation of 2 U.S.C. § 441a(a).

3. Respondents will cease and desist from violating 2 U.S.C. § 441a(f), 11 C.F.R. §§ 102.9(c)(3), 110.1(h)(3)(i), and 110.2(b)(3)(i).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Except as otherwise provided, Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Thomasenia P. Duncan
General Counsel

BY:

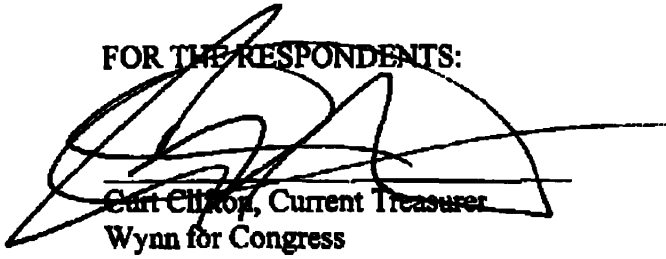

Ann Marie Terzaken
Associate General Counsel

6/10/10
Date

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For Enforcement

FOR THE RESPONDENTS:



Carl Clinton, Current Treasurer
Wynn for Congress

03/12/2010

Date

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