



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 5, 2011

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2011 AUG -5 PM 2:25

RECEIVED
FEDERAL ELECTION
COMMISSION

TWO WAY MEMORANDUM

TO: OGC Docket
FROM: Rosa E. Swinton *RES*
Financial Operation Specialist

SUBJECT: Account Determination for Funds Received

We recently received a check from **Empire State Regional Council of Carpenters**. The check number is **3112**. Dated **07/27/2011**, in the amount of **\$75,000.00**. A copy of the check and all correspondence are attached. Please indicate below which account the funds should be deposited and give the MUR/Case number and name associated with the deposit.

TO: Rosa E. Swinton
Financial Operation Specialist

FROM: OGC Docket

SUBJECT: Disposition of Funds Received

In reference to the above check in the amount of \$ 75,000.00,
the MUR/Case number is 6468 and in the name of ESREC.

Please this deposit in the account indicated below:

Civil Penalties Account, 95-1099.160

Miscellaneous Receipt Account, 95-3220.160
(Disgorgement)

Rosa E. Swinton
Signature

8-5-11
Date

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EMPIRE STATE REGIONAL
COUNCIL OF CARPENTERS
POLITICAL ACTION FUND - FEDERAL
14 SAWMILL RIVER ROAD
HAWTHORNE, NEW YORK 10532

FIRST TRADE
UNION BANK

Capital. Credentials. Commitment.
50-1412-214

7/27/2011

PAY
TO THE
ORDER OF

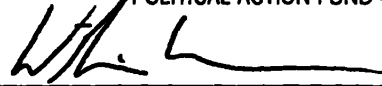
FEDERAL ELECTION COMMISSION

\$ **75,000.00

Seventy-Five Thousand and 00/100***** DOLLARS

FEDERAL ELECTION COMMISSION
999 EAST STREET N.W.
WASHINGTON, DC 20463

EMPIRE STATE REGIONAL COUNCIL OF CARPENTERS
POLITICAL ACTION FUND - FEDERAL



AUTHORIZED SIGNATURE

MEMO
FINES

⑈003112⑈ ⑆021414125⑆ 2115000015⑈

EMPIRE STATE REGIONAL COUNCIL OF CARPENTERS
POLITICAL ACTION FUND - FEDERAL

3112

FEDERAL ELECTION COMMISSION
6330 · QUARTERLY REPORT FINES MUR 6468

7/27/2011

75,000.00

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FIRST TRADE/FED P FINES

75,000.00

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RECEIVED
FEDERAL ELECTION
COMMISSION

2011 APR 28 PM 4:32

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) PRE-MUR 507
Empire State Regional Council of)
Carpenters; Empire State Regional)
Council of Carpenters Political Action)
Fund-Federal, and William R. Banfield,)
in his official capacity as treasurer ..)

CERTIFICATION

I, Shelley E. Garr, recording secretary for the Federal Election Commission executive session on April 26, 2011, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions:

1. Open a MUR. MUR # 6468
2. Find reason to believe that the Empire State Regional Council of Carpenters violated 2 U.S.C. § 432(b)(2) and 11 C.F.R. §§ 102.6(c)(4) and 102.8(b).
3. Find reason to believe that Empire State Regional Council of Carpenters PAC-Federal and William Banfield, in his official capacity as treasurer, violated 2 U.S.C. § 432(b)(2) and 11 C.F.R. § 102.6(c)(1)
4. Find reason to believe that Empire State Regional Council of Carpenters PAC-Federal and William Banfield, in his official capacity as treasurer, violated 2 U.S.C. § 434(b).
5.
6.

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7. Approve the Legal and Factual Analysis as recommended in the First General Counsel's Report dated February 22, 2011, subject to the following edits: on page 2, line 12 replace "we do not" with "the Commission does not" and on page 4, line 10 delete the word "direct."
8. Approve the appropriate letters.

Commissioners Bauerly, Hunter, McGahn II, Petersen, and Weintraub voted

affirmatively for the decision. Commissioner Walther did not vote.

Attest

April 28, 2011
Date

Shelley E. Garr
Shelley E. Garr
Deputy Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY - 6 2011

Stephen H Sholk, Esq.
Gibbons P.C.
One Gateway Center
Newark, NJ 07102-5310

RE: MUR 6468
Empire State Regional Council of
Carpenters
Empire State Regional Council
of Carpenters Political Action
Fund-Federal, William R. Banfield,
Treasurer

Dear Mr. Sholk:

On November 1, 2010, the Federal Election Commission (the "Commission") notified you of the receipt of your submission pertaining to possible violations by your clients, the Empire State Regional Council of Carpenters, the Empire State Regional Council of Carpenters Political Action Fund-Federal and William R. Banfield, in his official capacity as treasurer, of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

After reviewing your initial submission, as well as supplements to that submission, the Commission, on April 26, 2011, found reason to believe that the Empire State Regional Council of Carpenters violated 2 U.S.C. § 432(b)(2), a provision of the Act, and 11 C.F.R. § 102.6(c)(4) and 11 C.F.R. § 102.8(b) of the Commission's regulations, and that the Empire State Regional Council of Carpenters Political Action Fund-Federal and William R. Banfield, in his official capacity as treasurer, violated 2 U.S.C. §§ 432(b)(2) and 434(b), provisions of the Act, and 11 C.F.R. § 102.6(c)(1) of the Commission's regulations. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

Please note that your clients have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

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In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that your clients wish the matter to be made public. We look forward to your response.

On behalf of the Commission,



Cynthia L. Bauerly
Chair

Enclosures
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

4
5 **RESPONDENT: Empire State Regional Council of Carpenters** **MUR 6468**
6 **Empire State Regional Council of Carpenters Political Action**
7 **Fund – Federal, and William R. Banfield, in his official capacity**
8 **as treasurer**

9
10 **I. GENERATION OF MATTER**

11 **This matter was generated based on a *sua sponte* submission filed by Empire State**
12 **Regional Council of Carpenters (“Empire State”) and the Empire State Regional Council of**
13 **Carpenters Political Action Fund – Federal, and William R. Banfield, in his official capacity as**
14 **treasurer (“Federal PAC”) notifying the Commission of Empire State’s apparent failures to**
15 **transfer contributions to its separate segregated fund (“SSF”), the Federal PAC, on a timely basis**
16 **and other recordkeeping and reporting discrepancies in violation of the Federal Election**
17 **Campaign Act of 1971, as amended, (“the Act”). See 2 U.S.C. § 437g(a)(2).**

18 **II. FACTUAL SUMMARY**

19 **It appears that, from 2001 onward, Empire State failed to transfer political contributions**
20 **collected from its members to the bank account of its SSF within the 30-day timeframe mandated**
21 **by 2 U.S.C. § 432(b)(2). Instead, Empire State maintained these funds for periods exceeding two**
22 **years in a separate escrow account whose activity it did not report to the Commission. The total**
23 **amount of escrow account deposits during 2001 – 2010 appears to be \$2,174,348.09.**

24 **In 2001, the Empire State Regional Council of Carpenters formed from the merger of**
25 **three separate New York carpenters’ unions. See Response to Memorandum at ¶1. At that time,**
26 **Empire State also organized its Federal and state PACs. Empire State acted as the collecting**
27 **agent for both the Federal PAC and for its state and local (non-federal) PAC, the Empire State**
28 **Regional Council of Carpenters Political Action Fund-State (“NYS PAC”). To solicit**

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1 contributions from union members, Empire State used a contribution card which stated that "all
2 contributions may be made to either the Federal PAC or the NYS PAC, or may be divided
3 among the two PACs in the discretion of the Treasurers of the PACs." *See Sua Sponte*
4 Submission at p. 1 and Exhibit D. The employers of Empire State members withheld the
5 members' voluntary PAC contributions together with all other union contributions (such as union
6 dues) from the union members' paychecks and sent checks in the amount of the withheld
7 contributions to Empire State's fund office. Employees of Empire State's fund office then
8 deposited these checks into a general account and transferred the contributions allocated for the
9 federal and state PACs from the general account to the PAC escrow account. *See Response to*
10 Memorandum at ¶3. Bank records provided indicate that the transfers from the general fund to
11 the PAC escrow account occurred within very short periods through automatic sweeps from bank
12 account to bank account, but the Commission does not have exact details on how long that
13 transfer process took. Empire State (as the collecting agent) used a single escrow account into
14 which it placed all contributions to its federal and state PACs. *See Response to Memorandum at*
15 ¶2. The bank records provided in response to OGC's request for additional information indicate
16 that Empire State deposited \$2,174,348.09 into the escrow account.¹

17 As discussed in more detail below, all of the collected political contributions placed in
18 the escrow account were available to be used as federal funds. Eventually Empire State
19 transferred the political contributions to the Federal PAC or the NYS PAC in response to specific

¹ As detailed in the Submission and the Response to Memorandum, Empire State and its SSF changed bank accounts during the time period discussed in this Factual and Legal Analysis, due to the consolidation of Empire State with other unions, consolidation in the banking industry, and a wholesale change in Empire State's banking relationship from Bank of America to First Trade Union Bank. As a result, at the end of June 2008 Empire State ceased deposits of contributions into the escrow account at Bank of America and began depositing all contributions into an FTUB escrow account (with linked checking account, which received deposits and then swept those deposits automatically into the escrow account). The Bank of America account continued to accrue interest from 2006 through 2009, when Empire State closed the account and transferred its remaining balance of \$219,000 to the FTUB escrow account on July 10, 2009.

1 requests by the treasurers of the committees for funds. Neither Empire State nor the Federal
2 PAC reported to the Commission the escrow account balance, deposits or withdrawals. Once
3 Empire State deposited the funds into the Federal PAC account, the Federal PAC reported those
4 transfers to the Commission.

5 The errors in Empire State's process came to light as a result of advice from Empire
6 State's accountant, Shultheis & Panatierre, that the escrow account for the PACs might be
7 irregular. *See Response to Memorandum* at ¶6. Empire State then requested an external review
8 by its outside counsel, Cary Kane, which resulted in an April 13, 2010 memo to Empire State
9 leadership outlining errors in the transmittal and reporting process. *See Sua Sponte Submission*
10 Exhibit I. Union leadership undertook an investigation as the United Brotherhood of Carpenters
11 and Joiners of America, ("UBC") a larger union with which Empire State is affiliated, prepared
12 to place Empire State under its supervision for administrative failures beginning on April 26,
13 2010. *See Sua Sponte Submission* at p. 3. UBC's counsel then initiated the *sua sponte*
14 submission on behalf of Empire State and the Federal PAC, which was received on August 25,
15 2010. During the change in leadership of the union and the PAC, the Federal PAC failed to
16 timely file its July 2010 Quarterly Report, which was addressed by the Administrative Fines
17 program in AF-2164. The Federal PAC filed an Amended July 2010 Quarterly Report on
18 December 2, 2010, noting numerous corrections to the original late-filed report.

19 The *sua sponte* submission states that when Empire State became aware of the transfer
20 violations, it stopped depositing contributions into the escrow account, and that it has begun
21 depositing all ongoing political contributions collected from its members into the Federal PAC
22 account to ensure compliance with the thirty-day transmittal period under 2 U.S.C.
23 § 432(b)(2)(A) and 11 C.F.R. § 102.8(b). The bank records provided in response to the

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1 Commission's request for additional information support this representation. Empire State has
2 also prepared and is using a new contribution card which states that all contributions will be
3 made to the Federal PAC. See Exhibit J to the Submission. After receipt of the political
4 contributions, the Federal PAC can, at its discretion, transfer unlimited funds to the NYS PAC
5 under 11 C.F.R. § 102.6(a)(1)(i). Further, as part of its *sua sponte* submission, Empire State
6 requests the Commission's approval of its plan to transfer the remaining funds in the escrow
7 account, (\$524,329.98 as of October 29, 2010), to the NYS PAC account and close the escrow
8 account.

9 **III. LEGAL ANALYSIS**

10 The Act prohibits labor organizations from making contributions in connection with
11 federal elections. 2 U.S.C. § 441b(a). However, labor organizations may establish and
12 administer separate segregated funds for political purposes, solicit contributions to those funds
13 from members and their families, and collect funds on behalf of their SSFs as "collecting
14 agents." 2 U.S.C. §§ 441b(b)(2)(C) and (4)(A)(ii); and 11 C.F.R. § 102.6(b).

15 Pursuant to 11 C.F.R. § 102.6(b)(1), "[a] collecting agent is an organization or committee
16 that collects and transmits contributions to one or more separate segregated funds to which the
17 collecting agent is related." Collecting agents may transfer unlimited funds "to a separate
18 segregated fund made pursuant to 11 C.F.R. § 102.6." 11 C.F.R. § 110.3(c)(1). Collecting
19 agents that are not otherwise organizations required to register with the Commission as political
20 committees, and that fulfill the requirements of 11 C.F.R. § 102.6(c), are not required to register
21 and report as political committees so long as the collecting agent does not engage in actions such
22 as making contributions or expenditures. 11 C.F.R. § 102.6(b)(2) However, separate segregated

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1 funds that receive contributions collected by collecting agents must report those contributions to
2 the extent required by 2 U.S.C. § 104.3(a). 11 C.F.R. § 102.6(c)(7).

3 Every person, including a collecting agent, who receives a contribution of \$50 or less for
4 a political committee which is not an authorized committee shall forward such contribution to the
5 treasurer of the committee within 30 days of receipt. 2 U.S.C. § 432(b)(2)(A), 11 C.F.R.
6 § 102.8(b)(1) and 11 C.F.R. § 102.6(c)(4). A union, as the collecting agent for its SSF, may
7 receive from members' employers a combined payment including "voluntary contributions to the
8 union's separate segregated fund and union dues or other employee deductions." 11 C.F.R.
9 § 102.6(c)(3). Upon receiving such combined payments, the union must segregate the SSF
10 contributions from the other union funds. To accomplish segregating the contributions, the
11 union, as its SSF's collecting agent, must either set up 1) "a transmittal account to be used solely
12 for the deposit and transmittal of funds collected on behalf of the separate segregated fund," all
13 of which such funds are subject to the Act's prohibitions and limitations; 2) deposit such
14 contributions into the agent's treasury account, keeping separate records, or 3) deposit them into
15 an account used otherwise only "for State and local election activity," again keeping separate
16 records of the contributions received for the SSF. 11 C.F.R. § 102.6(c)(4)(ii).

17 The collecting agent must "retain all records of contribution deposits and transmittals . . .
18 for a period of three years . . ." 11 C.F.R. § 102.6(c)(6). The separate segregated fund for
19 which the collecting agent is collecting funds is responsible for "ensuring that the recordkeeping,
20 reporting, and transmittal requirements" of the regulations are met by the collecting agent.
21 11 C.F.R. § 102.6(c)(1). The Act requires that committees (other than authorized committees of
22 candidates) report, for the reporting period and calendar year, the total amount of all receipts, *see*

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1 2 U.S.C. § 434(b)(2), the total amount of all disbursements, *see* 2 U.S.C. § 434(b)(4); and the
2 total amount of all transfers to affiliated committees, *see* 2 U.S.C. § 434(b)(4)(C).

3 **1. Timing of Transfers**

4 Empire State, as a labor organization, could properly serve as a collecting agent for its
5 own connected SSF, and the voluntary contributions collected by Empire State were permissible
6 contributions under the Act. 2 U.S.C. §§ 441b(b)(2)(C) and (4)(A)(ii); and 11 C.F.R.
7 § 102.6(b). However, the timing of the ongoing transfers from the escrow account to the Federal
8 PAC violates the Act. As outlined above, 2 U.S.C. § 432(b)(2) requires any recipient to forward
9 contributions under \$50 no later than 30 days after receipt, and 11 C.F.R. § 102.6(c)(4) confirms
10 that this timeframe applies to collecting agents. According to the *sua sponte* submission, Empire
11 State did not transfer any of the amounts collected in the escrow account to the Federal PAC
12 within 30 days of receipt. *See Sua Sponte* Submission at p. 2. The bank records provided, when
13 compared with the Federal PAC's disclosure reports filed with the Commission, indicate that
14 from the date that Empire State deposited contributions into the escrow account, more than two
15 years passed before the Federal PAC reported receiving transfer of any of those contributions.²
16 The Commission therefore finds reason to believe that the Empire State Regional Council of
17 Carpenters violated 2 U.S.C. § 432(b)(2) and 11 C.F.R. §§ 102.6(c)(4) and 102.6(b) by failing to
18 transmit funds from its escrow account within the thirty-day period established by the statute and
19 regulations.

²For example, though the escrow account accumulated \$389,423.19 in new contributions during 2006, and \$301,739.17 in new contributions in 2007, none of that money was transferred to the Federal PAC's account during 2006 or 2007, as reflected in the Federal PAC's bank statements and its FEC disclosure reports. Not until the July 2008 Quarterly Report did the Federal PAC report receipt of funds, disclosing receipt of \$10,000 in un-itemized contributions in that quarter. The Federal PAC reported receiving \$15,000 in un-itemized receipts on its 2009 Mid-Year Report, and an additional \$100,000 in un-itemized receipts on its 2009 Year-End Report.

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1 As noted above, pursuant to 11 C.F.R. § 102.6(c)(1), separate segregated funds are
2 responsible for ensuring that their collecting agents comply with the recordkeeping, reporting
3 and transmittal requirements of 11 C.F.R. § 102.6. The Federal PAC did not ensure that Empire
4 State properly forwarded contributions within the required timeframes. *See Sua Sponte*
5 Submission at p. 2. Therefore, there is reason to believe that the Empire State Regional Council
6 of Carpenters PAC-Federal and its treasurer, William R. Banfield, acting in his official capacity,
7 violated 2 U.S.C. § 432(b)(2) and 11 C.F.R. § 102.6(c)(1) by failing to ensure that its collecting
8 agent, Empire State Regional Council of Carpenters, complied with the Act's transmittal
9 requirements with regard to the funds transferred from the escrow account to the Federal PAC.
10 *See* MUR 5229 (SEIU Local 1199) (the Commission found reason to believe against both the
11 collecting agent and the SSF where the union, acting as the collecting agent, failed to timely
12 transfer funds, and the SSF failed to ensure that the collecting agent complied with the law.)

13 2. Reporting Violations

14 Empire State's failure to comply with the 30-day transmittal requirements of 2 U.S.C.
15 § 432(b)(2) and 11 C.F.R. § 102.8(b), as required by 11 C.F.R. § 102.6(c)(4), caused the Federal
16 PAC to under-report its cash-on-hand in violation of 2 U.S.C. § 434(b) from 2001 until the
17 present. Because Empire State made all of the funds collected in the escrow account available
18 for federal use but these amounts were not properly reported to the Commission as cash-on-hand,
19 the funds were thus undetectable by the public. The cumulative failures to report cash-on-hand
20 from 2006 to the present total \$6,400,000 over 16 reporting periods, or \$1,475,468.52 in unique
21 un-reported funds.

22 Although Empire State also made the funds in the escrow account available for state and
23 local use, and eventually transferred some of the funds to the NYS PAC, it failed to differentiate

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1 the funds in the account by intended use. It could have differentiated the funds by either 1)
2 treating all of the receipts as reportable federal receipts and then transferring money as needed to
3 the non-federal account by using the unlimited transfer rule of 11 C.F.R. § 102.6(a)(1)(i) (as was
4 approved in Advisory Opinion 1981-59 (Nat. Assoc. of Realtors)); or 2) specifically soliciting
5 contributions to the non-federal account as such (or at least having the donor designate a specific
6 share of his or her contribution as non-federal) and depositing those funds upon receipt in the
7 non-federal NYS PAC account, at which point they would be unavailable for federal use, even
8 though otherwise within the Act's limitations or prohibitions. Because Empire State failed to
9 differentiate the funds in the escrow account, it should have reported, as part of its cash-on-hand,
10 all funds in the escrow account at the end of each relevant reporting period because the entire
11 contents of the account were available for federal use. Empire State has represented that, as part
12 of its remedial measures in this matter, it has adopted the first course above as its method for
13 differentiating funds going forward. It deposits all contributions to its PACs into the Federal
14 PAC account, reports all receipts to the Commission, and then disburses funds as needed to the
15 NYS PAC under the unlimited transfer rule of 11 C.F.R. § 102.6(a)(1)(i), and reports those
16 disbursements to the Commission.

17 Therefore, there is reason to believe that the Federal PAC violated 2 U.S.C. § 434(b) by
18 failing to report funds available for federal use in the escrow account as cash-on-hand during the
19 periods covered by the 2006 April Quarterly Report through the 2010 April Quarterly Report.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RECEIVED
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COMMISSION

2011 AUG -4 AM 11: 11

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SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Christopher Hughey
Acting General Counsel

Kathleen M. Guith
Acting Associate General Counsel for Enforcement

BY: Peter G. Blumberg *PB*
Assistant General Counsel

Audra Hale-Maddox *AHM*
Attorney

SUBJECT: MUR 6468 (Empire State Regional Council of Carpenters, *et al.*)

RE: Pre-Probable Cause Conciliation Agreement

2011 AUG -4 A 11: 35

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FEDERAL ELECTION
COMMISSION
SECRETARIAT

Attached is a conciliation agreement signed by representatives of the Empire State Regional Council of Carpenters ("Empire State") and the Empire State Regional Council of Carpenters Political Action Fund-Federal and William R. Banfield, in his official capacity as treasurer, ("Federal PAC"). The agreement would settle violations of 2 U.S.C. §§ 432(b) and 434(b), and 11 C.F.R. §§ 102.6(c) and 102.8(b), stemming from Empire State's failure, as the collecting agent for the Federal PAC, to timely forward contributions to the Federal PAC, instead maintaining the collected funds in an undisclosed escrow account. The Federal PAC failed to ensure that its collecting agent forwarded funds to it in a timely manner, and failed to report the funds in the escrow account as cash-on-hand over a period of years.

The agreement recites the pertinent facts of this matter and contains admissions to violations of the Act and the Commission's regulations, as well as an agreement to cease and desist from further violations and amend the Federal PAC's reporting within 60 days of the effective date of the agreement. In addition, Respondents

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1 agree to pay a civil penalty of \$75,000,

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4 After the Commission made its reason to believe findings in this matter, counsel
5 for Empire State notified OGC that Empire State had merged into a new union, the
6 Northeast Regional Council of Carpenters. This new union has accepted responsibility
7 for entering into the Conciliation Agreement as the successor-in-interest to Empire State,
8 and has agreed to be bound by the terms of the Conciliation Agreement. Accordingly,
9 the conciliation agreement includes a statement at Paragraph IV. 1. noting the merger of
10 Empire State into the Northeast Regional Council of Carpenters and explains that the
11 Northeast Regional Council of Carpenters enters into the Conciliation Agreement on its
12 predecessor's behalf. See MUR 5268 (Kentucky Council of Carpenters) (using same
13 language in a Conciliation Agreement with a successor-in-interest). [redacted] also
14 include a statement that the current treasurer was not the treasurer of the Federal PAC at
15 the time of the events recounted in the conciliation agreement.
16

17 We believe that the changes represent a reasonable compromise in settlement of
18 this matter. Therefore, we recommend that the Commission accept the signed
19 conciliation agreement, approve the appropriate letters, and close the file.
20

21 **RECOMMENDATIONS**

- 22
- 23 1. Accept the signed conciliation agreement;
 - 24 2. Approve the appropriate letters; and
 - 25 3. Close the file.
- 26
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AM

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 Empire State Regional Council of) MUR 6468
 Carpenters, now known as Northeast)
 Regional Council of Carpenters, as)
 successor-in-interest; Empire State)
 Regional Council of Carpenters Political)
 Action Fund-Federal and William R.)
 Banfield, in his official capacity as)
 treasurer)

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CERTIFICATION

I, Shelley E. Garr, Deputy Secretary of the Federal Election Commission,
 do hereby certify that on August 17, 2011, the Commission decided by a vote of
 5-0 to take the following actions in MUR 6468:

1. Accept the signed conciliation agreement, as recommended in the
 General Counsel's Report dated August 4, 2011.
2. Approve the appropriate letters.
3. Close the file.

Commissioners Bauerly, Hunter, McGahn II, Walther, and Weintraub voted
 affirmatively for the decision. Commissioner Petersen did not vote.

Attest:

August 19, 2011
 Date

Shelley E. Garr
 Shelley E. Garr
 Deputy Secretary of the Commission



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

AUG 22 2011

VIA FIRST CLASS MAIL AND FACSIMILE

Steven H. Sholk, Esq.
Gibbons, P.C.
One Gateway Center
Newark, NJ 07102-5310

RE: MUR 6468
Empire State Regional Council of
Carpenters, *et. al.*

Dear Mr. Sholk:

On August 17, 2011, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of your clients, Empire State Regional Council of Carpenters ("Empire State") now known as Northeast Regional Council of Carpenters, as successor-in-interest, and its separate segregated fund, the Empire State Regional Council of Carpenters Political Action Fund-Federal and William R. Banfield, in his official capacity as treasurer ("Federal PAC") (collectively, "Respondents"). The Commission accepted the conciliation agreement in settlement of violations of 2 U.S.C. § 432(b)(2) and 11 C.F.R. §§ 102.6(c)(4) and 102.8(b) by Empire State, and of 2 U.S.C. §§ 432(b)(2) and 434(b) and 11 C.F.R. § 102.6(c)(1) by the Federal PAC. 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) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondents 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. If you have any questions, please contact me at (202) 694-1650.

Andra Hale-Maddox
Attorney

Enclosure
Conciliation Agreement

11044301789

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MUR 6468
Empire State Regional Council of)	
Carpenters, now known as Northeast)	
Regional Council of Carpenters, as)	
successor-in-interest)	
Empire State Regional Council of)	
Carpenters Political Action Fund-Federal)	
and William R. Banfield, in his)	
official capacity as treasurer)	

CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission made to the Federal Election Commission ("the Commission") by the Empire State Regional Council of Carpenters ("Empire State") now known as Northeast Regional Council of Carpenters, as successor-in-interest, and its separate segregated fund, the Empire State Regional Council of Carpenters Political Action Fund-Federal and William R. Banfield, in his official capacity as treasurer ("Federal PAC") (collectively, "Respondents"). The Commission found reason to believe that Empire State violated 2 U.S.C. § 432(b)(2) and 11 C.F.R. §§ 102.6(c)(4) and 102.8(b), and that the Federal PAC violated 2 U.S.C. §§ 432(b)(2) and 434(b) and 11 C.F.R. § 102.6(c)(1).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, 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.

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III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Empire State Regional Council of Carpenters was a New York carpenter's and joiner's union formed in July 2001 from the merger of three pre-existing New York unions. Empire State is a labor organization within the meaning of 2 U.S.C. § 441b(b)(1). On April 5, 2011, the Empire State Regional Council of Carpenters merged with another union to form the Northeast Regional Council of Carpenters. The Northeast Regional Council of Carpenters is a party to this matter solely as successor-in-interest to the Empire State Regional Council of Carpenters. Although the Northeast Regional Council of Carpenters was not the focus of the Commission's reason to believe findings in this matter, the Northeast Regional Council of Carpenters recognizes that it is a respondent herein as successor-in-interest to Empire State and is thus bound by this Conciliation Agreement.

2. The Federal Election Campaign Act of 1971, as amended ("the Act"), prohibits labor organizations from making contributions in connection with Federal elections. 2 U.S.C. § 441b(a). However, it permits labor organizations to establish and administer separate segregated funds for political purposes and to solicit contributions to those funds from members and their families. 2 U.S.C. § 441b(b)(2)(C) and (4)(A)(ii).

3. The Empire State Regional Council of Carpenters Political Action Fund – Federal is the separate segregated fund of the Empire State Regional Council of Carpenters within the meaning of 2 U.S.C. § 441b(b)(2)(C) and 11 C.F.R. § 114.5. The Federal PAC is a political committee within the meaning of 2 U.S.C. § 431(4). William R. Banfield is the current treasurer of the Federal PAC, and was not the treasurer at the time of the activity addressed in this Agreement.

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4. Upon the formation of Empire State in July 2001, the Federal PAC took over the PAC previously operated by one of the three pre-existing New York unions that merged to form Empire State – the Suburban New York Council of Carpenters PAC. On March 11, 2002, the Federal PAC amended the Suburban New York Council of Carpenters PAC’s Statement of Organization with the Commission, and at all times subsequent, the Federal PAC has been registered with the Commission as a political committee pursuant to 2 U.S.C. § 433.

5. Empire State serves as the collecting agent for the Federal PAC. A “collecting agent” is an organization or committee that collects and transmits contributions to one or more separate segregated funds to which the collecting agent is related. 11 C.F.R. § 102.6(b)(1). The connected organization of a separate segregated fund may act as its collecting agent. 11 C.F.R. § 102.6(b)(1)(ii).

6. Pursuant to 2 U.S.C. § 432(b)(2)(A) and 11 C.F.R. § 102.8(b)(1), every person who receives a contribution of \$50 or less for a political committee that is not an authorized committee of a candidate shall forward such contribution to the treasurer of the committee within 30 days of receipt.

7. A collecting agent must transmit to the treasurer of a separate segregated fund for which it collects contributions the full amount of each contribution collected within 30 days of receipt, in the case of contributions of \$50 or less, pursuant to 11 C.F.R. § 102.8(b). 11 C.F.R. § 102.6(c)(4).

8. For purposes of making transmittals of contributions received in forms other than checks made payable to the separate segregated fund, the collecting agent must either:
1) set up a transmittal account to be used solely for the deposit and transmittal of funds collected on behalf of the separate segregated fund; or 2) deposit such contributions into the collecting

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agent's treasury account, keeping separate records; or 3) deposit them into an account used only for State and local election activity. 11 C.F.R. § 102.6(c)(4)(ii).

9. A separate segregated fund for which funds are being collected by a collecting agent is responsible for ensuring that its collecting agent complies with the applicable recordkeeping, reporting and transmittal requirements of the Commission's regulations.

11 C.F.R. § 102.6(c)(1).

10. Political committees (other than authorized committees of candidates) are required to report to the Commission, for the reporting period and the calendar year, the total amount of all receipts. 2 U.S.C. § 434(b)(2).

11. At all times relevant hereto, Empire State's members could make political contributions, by means of payroll deduction, to both the Federal PAC and to Empire State's non-federal State and local political committee, the New York State Political Action Committee ("NYS PAC").

12. The contributions card by which Empire State solicited contributions to its Federal PAC and its non-federal political committee stated that "all contributions may be made to either the Federal PAC or the NYS PAC, or may be divided among the two PACs in the discretion of the Treasurers of the PACs."

13. Beginning with the founding of Empire State in its current form in July 2001, and continuing through April 2010, Empire State maintained an escrow account into which it deposited its members' political contributions. The amounts contained in the escrow account totaled \$2,174,348.09.

14. None of these funds were transferred from the escrow account to the Federal PAC within 30 days of receipt.

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15. The Federal PAC did not report any of the funds available to it in the escrow account as cash on hand on its FEC disclosure reports.

V. 1. Empire State violated 2 U.S.C. § 432(b)(2) and 11 C.F.R. § 102.6(c)(4) by failing to transfer funds from its collecting agent accounts to the Federal PAC in a timely manner.

2. The Federal PAC violated 2 U.S.C. § 432(b)(2) and 11 C.F.R. § 102.6(c)(1) by failing to ensure that its collecting agent, Empire State, forwarded funds to it in a timely manner.

3. The Federal PAC violated 2 U.S.C. § 434(b) by failing to disclose the cash-on-hand available to it in the escrow accounts.

VI. 1. Respondents will cease and desist from violating 2 U.S.C. § 432(b)(2) and 11 C.F.R. § 102.6(c).

2. The Federal PAC will cease and desist from violating 2 U.S.C. § 434(b).

3. Respondents will pay a civil penalty to the Federal Election Commission in the amount of seventy-five thousand dollars (\$75,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

4. The Federal PAC will amend its disclosure reports to reflect the available cash-on-hand for the reporting periods from the initiation of its reporting through the present. The Federal PAC will be allowed to file one omnibus amended report to reflect all applicable cash-on-hand balances through the present.

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

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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. 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, with the exception of Section VI. 4. Respondents shall have no more than 60 days to comply with and implement the requirements of Section VI. 4, concerning filing amended disclosure reports with the Commission.

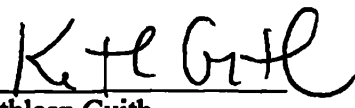
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X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not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

FOR THE COMMISSION:

Christopher Hughey
Acting General Counsel


BY:


Kathleen Guith
Acting Associate General Counsel
for Enforcement

Date


8/22/11

FOR THE RESPONDENTS:


Michael Capelli
Executive Secretary-Treasurer
Northeast Regional Council of Carpenters,
formerly known as Empire State Regional
Council of Carpenters

Date

8/1/2011


William R. Banfield
Treasurer
Empire State Regional Council
of Carpenters Political Action
Fund-Federal

Date

7/26/11

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