

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
National Right to Life Political Action) MUR 6266
Committee and Carol Tobias, in her)
official capacity as treasurer)

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on July 06, 2010, the Commission decided by a vote of 5-1 to take the following actions in MUR 6266:

1. Accept the conciliation agreement with National to Life Political Action Committee and Carol Tobias, in her official capacity as treasurer, as recommended in the General Counsel's Memorandum dated June 18, 2010.
2. Approve the appropriate letter.
3. Close the file.

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

Attest:

July 6, 2010
Date

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

10044274086



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Mr. James Bopp, Jr., Esq.
Mr. Barry A. Bostrom, Esq.
Bopp, Coleson & Bostrom
The National Building
One South Sixth Street
Terre Haute, Indiana 47807-3510

JUL 14 2010

RE: MUR 6266
National Right to Life PAC and
Carol Tobias, in her official capacity
as treasurer

Dear Messrs. Bopp and Bostrom:

On July 6, 2010, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on behalf of your clients, National Right to Life PAC, and Carol Tobias, in her official capacity as treasurer ("NRTLPA"), in settlement of violations of 2 U.S.C. §§ 434(b) and 434(g), provisions of the Federal Election Campaign Act of 1971, as amended. 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).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the conciliation agreement requires that your clients take the following actions:

(1) to the extent that they have not already done so, amend the requisite disclosure reports to correct the errors set forth in the Commission's findings in the agreement;

(2) enter into an agreement with the consultant in which the consultant (we assume it shall be Huckaby Davis, Lisker) will conduct an on-site training session with NRTLPA's permanent staff at least once during the 2010 election cycle, and at least once during the 2012 election cycle;

(3) provide the Commission with a copy of its agreement with the consultant no later than 30 days after the date this agreement becomes effective;

10044274088

Mr. James Bopp, Jr., Esq.
Mr. Barry A. Bostrom, Esq.
National Right to Life PAC
MUR 6266
Page 2

(4) participate in the consultant's review, which shall include, but need not be limited to, your clients' practices and procedures regarding the disclosure of disbursements, debts and obligations, disbursements of Independent Expenditures, disclosure of 24 and 48-Hour Notices of Independent Expenditures, and the completeness of records;

(5) adopt the consultant's management plan upon completion of its review establishing procedures in connection with the matters set forth above, which shall be submitted to the Commission no later than 90 days after the date this agreement becomes effective; and

(6) require the Committee treasurer and the person who prepares its disclosure reports to attend a Commission-sponsored training program within a year of the effective date of this agreement.

If you have any questions, please contact me at (202) 694-1372.

Sincerely,



Roy Q. Lockett
Staff Attorney

Enclosure
Conciliation Agreement

10044274089

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 6266
National Right to Life Political Action Committee and)
Carol Tobias, in her official capacity as treasurer)

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 the National Right to Life Political Action Committee and Carol Tobias, in her official capacity as treasurer ("Respondents"), violated 2 U.S.C. §§ 434(b) and (g).

NOW THEREFORE, the Commission and 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:

1. National Right to Life Political Action Committee ("Committee") is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Carol Tobias is the Committee's treasurer.

10044274090

3. The Federal Election Campaign Act of 1971, as amended, ("the Act") requires political committees, through their treasurers, to file complete and accurate reports with the Commission. 2 U.S.C. § 434.

4. An independent expenditure is an expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate, and is not coordinated with a candidate, candidate's committee, party committee or their agents. 2 U.S.C. § 431(17). The Act permits political committees such as the Committee to make unlimited independent expenditures, but they are required to disclose those expenditures to the public through timely reports filed with the Commission if, in aggregate, they exceed \$250. 2 U.S.C. § 434(c); 11 C.F.R. §§ 100.16, 104.4(g), 109.10; *Buckley v. Valeo*, 424 U.S. 1, 45 (1976). Such expenditures, when added to other independent expenditures made to the same payee during the same calendar year that exceed \$200, shall be reported on Schedule E. 11 C.F.R. §§ 104.3 (b)(3)(vii) and 104.4(a).

5. The Commission must receive a political committee's reports of independent expenditures within 24 or 48 hours, whichever is applicable, of the date that the independent expenditure is publicly distributed or otherwise disseminated. 11 C.F.R. §§ 104.4(f) and 104.5(g)(2). Any independent expenditures aggregating \$1,000 or more, with respect to any given election, and made after the 20th day but more than 24 hours before the day of an election must be reported and the report must be received by the Commission within 24 hours after the expenditure is made. 2 U.S.C. § 434(g)(1)(A). A 24-hour notice is required for each additional \$1,000 that aggregates. 2 U.S.C. § 434(g)(1)(B). Any independent expenditure aggregating \$10,000 or more with respect to any given election, at any time during a calendar

1009427 AUG 1

year, up to and including the 20th day before an election, must disclose this activity within 48 hours each time that the expenditures aggregate \$10,000 or more. 2 U.S.C. § 434(g)(2).

6. Each independent expenditure disclosure must include, among other things, the name and address of each person who receives a disbursement from the individual in connection with the independent expenditure, along with the date, amount, and purpose of any such independent expenditure, and a statement that indicates whether such expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by the candidate. *See* 2 U.S.C. §§ 434(b)(6)(B)(iii) and 434(c)(2)(A).

7. Independent expenditures made prior to payment should be disclosed on Schedule E and as a reportable debt on Schedule D with a statement (“memo”) explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 C.F.R. § 104.11.

8. The Act and the Commission’s regulations require that political committees disclose on Schedule D the amount and nature of outstanding debts and obligations owed by or to the reporting committee. 2 U.S.C. § 434(b)(8) and 11 C.F.R. §§ 104.3(d) and 104.11. Political committees must also report all independent expenditures on Schedule E. 2 U.S.C. § 434(b)(4)(H)(iii) and 11 C.F.R. § 104.4.

9. On October 15, 2006, the Committee filed its initial 2006 October Quarterly Report, covering the period from July 1, 2006 through September 30, 2006, and amended that report on March 22, 2007. Schedule E of the March 22, 2007 amendment to this report disclosed 14 independent expenditures totaling \$26,372 for which the Committee did not file or timely file five 24-Hour Notices of Independent Expenditures.

10044274092

10. On October 26, 2006, the Committee filed its initial 2006 12 Day Pre-General Report, which covered the period from October 1, 2006 through October 18, 2006, and amended that report on August 4, 2008. Schedule E of the August 4, 2008 amendment to this report disclosed 36 independent expenditures totaling \$49,535.15 for which the Committee did not file 12 48-Hour Notices of Independent Expenditures.

11. On October 10, 12, and 18, 2006, the Committee filed four 48-Hour Notices of Independent Expenditures totaling \$67,951.49 but failed to disclose the corresponding expenditures on a Schedule E or memo Schedule E or as debt on Schedule D on its August 4, 2008, Amended 2006 12 Day Pre-General Report. Additionally, the Committee disclosed incorrect congressional districts for thirteen independent expenditures totaling \$4,306.40 made on behalf of ten federal candidates, and omitted the candidate's name five times in independent expenditures totaling \$7,800.30. The Committee also failed to describe the purpose of its October 12, 2006, independent expenditure made on behalf of Dennis Rehberg in the amount of \$249.60.

12. On December 8, 2006, the Committee filed its 2006 30 Day Post-General Report, which covered the period from October 19, 2006 through November 27, 2006, and amended that report on August 4, 2008. Schedule E of the August 4, 2008 amendment to this report disclosed 238 independent expenditures totaling \$150,494.58 for which the Committee did not file 92 24-Hour Notices of Independent Expenditures. Additionally, the Committee failed to disclose the name of the candidate supported or opposed as well as the candidate's office sought, state and district, where applicable, for eight independent expenditures totaling \$1,818.37; disclosed incorrect congressional districts when identifying the office sought for 25 independent expenditures to congressional candidates totaling \$11,483.65; failed to provide an adequate

10040274093

purpose of disbursement for 76 independent expenditures totaling \$877.88; failed to clarify 13 independent expenditures totaling \$826.26 that were made after the date of the 2006 General Election and which did not appear to be debt payments for previously reported expenditures; and disclosed two independent expenditures totaling \$1,392.82 with dissemination dates that were different than the dissemination dates disclosed on the 24-Hour Notices. The Committee also failed to clarify six independent expenditures with amounts on Schedule E that differed from the amounts on the corresponding 24-Hour Notices by a total of \$962.77.

13. Additionally, the Committee's August 4, 2008, Amended 2006 30 Day Post-General Report reflects eight instances of inaccurate debt reporting, collectively totaling \$10,408.84. Specifically, the Committee failed to provide memo entries on Schedule Es disclosing the date of dissemination of three independent expenditures totaling \$3,414.16 for which debts were shown as incurred on Schedule D supporting Line 10 (Debts and Obligations Owed by the Committee) of the Summary Page of this report. The Committee also failed to disclose two debt payments totaling \$1,861.02 on Schedule B to correspond to the Schedule D debt payment entries. In addition, the Committee failed to disclose debt entries on Schedule D corresponding to three memo entries on Schedule E for independent expenditures totaling \$5,133.66.

14. On Schedule D of its August 4, 2008, Amended 2006 30 Day Post-General Report, the Committee disclosed 114 debts that it owed vendors, with opening balances totaling \$194,455.54. Among these were two debts owed to EU Services, with opening balances totaling \$50,245.84. However, the Committee did not reflect these debts as outstanding ending balances on Schedule D of the prior Amended 2006 12 Day Pre-General Report, also filed on August 4, 2008. Conversely, the Committee disclosed two other debts on Schedule D owed to this vendor

10044274034

totaling \$40,141.15 as outstanding ending balances on the Amended 2006 12 Day Pre-General Report, without disclosing the opening balances for these debts on Schedule D to the Amended 2006 30 Day Post-General Report.

15. On Schedule E of its August 4, 2008, Amended 2006 Year End Report, covering the period from November 28, 2006 through December 31, 2006, the Committee disclosed an incorrect congressional district for an independent expenditure made to a congressional candidate in the amount of \$148.58. The Committee also failed to clarify seven independent expenditures totaling \$4,472.30 on Schedule E of this report, which were made after the date of the 2006 General Election and that did not appear to be debt payments for expenditures previously disclosed.

V. 1. Respondents failed to accurately disclose debts and independent expenditure information on its Schedules D and E, in violation of 2 U.S.C. § 434(b).

2. Respondents failed to file or timely file 24 and 48-Hour Notices of Independent Expenditures, in violation of 2 U.S.C. § 434(g).

VI. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Twenty-Five Thousand dollars (\$25,000), pursuant to 2 U.S.C. § 437g(a)(5)(A). In ordinary circumstances, the Commission would seek a higher civil penalty based on the violations outlined in this agreement as well as mitigating circumstances. However, based upon representations made by Respondents, the Commission is taking into account the fact that Respondents have hired a full-time employee to coordinate compliance with respect to 24 and 48- Hour Notices of Independent Expenditures and are engaging the services of a compliance consultant. See Paragraphs VI. 4 and VI.5, *infra*.

10044274095

2. Respondents will cease and desist from violating 2 U.S.C.

§§ 434(b) and (g).

3. To the extent they have not already done so, Respondents shall amend their 2006 October Quarterly, 12 Day Pre-General, 30 Day Post-General, and Year-End Reports, and to the extent appropriate, any subsequent disclosure reports, to correct the errors set forth in the Commission's findings in this agreement.

4. Respondents agree to continue the services of a full-time employee to coordinate compliance of 24 and 48- Hour Notices of Independent Expenditures through at least December 31, 2012.

5. Respondents agree to retain an outside consultant to review the Committee's compliance procedures. The consultant shall be experienced in complying with the Act's requirements, and shall be skilled in preparing Commission reports and in political committee accounting procedures. The consultant shall not be a Committee officer or a member of the Committee's permanent staff.

Respondents' agreement with the consultant shall require the consultant to be available for consultations with the Respondents' permanent staff, and shall require the consultant to conduct an on-site training session with the Committee's permanent staff at least once during the 2010 election cycle, and at least once during the 2012 election cycle.

Respondents will produce to the Commission a copy of its agreement with the consultant no later than 30 days after the date on which the Commission accepts this Agreement.

The scope of the consultant's review shall include, but need not be limited to, Respondents' practices and procedures regarding:

10044274096

- a. the disclosure of disbursements, debts and obligations;
- b. disbursements of Independent Expenditures;
- c. the disclosure of 24 and 48-Hour Notices of Independent Expenditures;
- d. the completeness of records.

Upon completion of the review, the consultant shall draft, and the Committee shall adopt, a management plan establishing procedures in connection with the matters set forth above. Respondents shall submit a copy of the plan, together with evidence of the Committee's adoption of that plan, to the Commission no later than 90 days after the date on which the Commission accepts this agreement.

Respondents will require the Committee treasurer and the person who prepares its disclosure reports to attend a Commission-sponsored training program within a year of the effective date of this agreement. Respondents shall submit evidence of registration and attendance at such event to the Commission.

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.

10044274097

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, except for the requirements of Paragraphs VI.4 and VI.5, 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: Kathleen Guith
~~Ann Marie Terzaker~~ Kathleen Guith
Acting Associate General Counsel
for Enforcement

7-12-10
Date

FOR THE RESPONDENTS:

By a Bortolin

6-11-10
Date

10044274098