

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Charlie Stuart for Congress (Pre-) MUR 6241
Probable Cause Conciliation))

CERTIFICATION

I, Darlene Harris, Acting Secretary of the Federal Election Commission,
do hereby certify that on May 12, 2010, the Commission decided by a vote of 6-0
to take the following actions in MUR 6241:

1. Accept the conciliation agreement with Charlie Stuart for Congress and Charlie Stuart, in his official capacity as treasurer, as recommended in the General Counsel's Memorandum dated May 3, 2010.
2. Approve the appropriate letter.
3. Close the file.

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

Attest:

May 13, 2010
Date

Darlene Harris
Darlene Harris
Acting Secretary of the Commission

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

MAY 14 2010

Mr. Charlie Stuart
Charlie Stuart for Congress
P.O. Box 560908
Orlando, FL 32856-14810

RE: MUR 6241
Charlie Stuart for Congress and Charlie
Stuart, in his official capacity as treasurer

Dear Mr. Stuart:

On May 12, 2010, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on behalf of Charlie Stuart for Congress in settlement of violations of 2 U.S.C. §§ 441a(f) and 441b(a), 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). 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, pursuant to Paragraph VI.3 of the agreement, a disgorgement check of \$1,800 is due within 30 days of the conciliation agreement's effective date (no later than June 11, 2010). If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script that reads "Dawn M. Odrowski".

Dawn M. Odrowski
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Charlie Stuart for Congress and Charlie Stuart,) MUR 6241
in his 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 that Charlie Stuart for Congress and Charlie Stuart, in his official capacity as treasurer (the "Respondents"), violated 2 U.S.C. §§ 441a(f) and 441b(a).

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 enter voluntarily into this agreement with the Commission.

III. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

Applicable Law

1. Candidates and committees may not accept contributions from the treasury funds of corporations or limited liability companies ("LLCs") that elect to be treated as

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corporations under Internal Revenue Service ("IRS") rules. 2 U.S.C. § 441b(a);
11 C.F.R. § 110.1(g)(3).

2. No person shall make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed the limitations of the Act. 2 U.S.C. § 441a(a)(1)(A). During the 2006 election cycle, the applicable contribution limit was \$2,100.
3. No candidate or political committee shall knowingly accept any contributions that exceed the limits established by 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).
4. Committee treasurers are responsible for examining each contribution received to determine whether it presents a genuine question as to whether it was made by a corporation or whether it exceeds the applicable contribution limit when aggregated with other contributions from the same individual. *See* 11 C.F.R. § 103.3(b).
5. If a committee receives a contribution that presents a genuine question as to whether it was made by a corporation, it must either 1) return the questionable contribution to the contributor or 2) deposit the contribution into its federal account and make its best effort to determine the legality of the contribution by making at least one written or oral request for evidence of the legality of the contribution. A contribution that cannot be determined to be legal must be refunded to the contributor within 30 days of its receipt. 11 C.F.R. § 103.3(b)(1).
6. If a committee receives a contribution that appears to be excessive, the committee must either: 1) return the excessive contribution or portion thereof to the contributor, or 2) deposit the contribution into its federal account and seek redesignation of the excessive amount to another election or reattribution to another

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contributor. If a redesignation or reattribution is not obtained within 60 days of its receipt, the contribution must be refunded to the contributor. 11 C.F.R. § 103.3(b)(3).

7. If a committee deposits questionable or excessive contributions, the contributions must not be used for any disbursements until they are determined to be legal. A committee must either establish a separate federal account for these contributions or keep enough funds in its account to cover potential refunds until the legality of the contribution is established. 11 C.F.R. § 103.3(b)(4).
8. A committee may redesignate an excessive contribution or portion thereof to another election by either: 1) requesting from the contributor a written redesignation and informing the contributor of the right to a refund as an alternative and obtaining the written redesignation signed by the contributor, or 2) notifying the contributor in writing of the amount of the contribution that was redesignated and that the contributor may request a refund. *See* 11 C.F.R. § 110.1(b)(5)(ii)(A)-(C).
9. A committee may reattribute to a joint contributor an excessive contribution made on a joint account by either: 1) inquiring whether the contribution was intended to be a joint contribution and informing the contributor that a refund of the excessive portion may be requested if it was not, and if it was, by obtaining a written reattribution signed by each joint contributor specifying how the contribution should be attributed, or 2) by notifying each joint contributor in writing how the contribution was reattributed and that the contributor may request a refund of the excessive portion of the contribution if it was not intended to be a joint contribution. *See* 11 C.F.R. § 110.1(k)(3).

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Factual Background

10. Respondents are Charlie Stuart for Congress, the principal campaign committee for Charlie Stuart, and Charlie Stuart, in his official capacity as treasurer.
11. The Commission conducted an audit of Charlie Stuart for Congress (the "Committee") pursuant to 2 U.S.C. § 438(b). The audit covered the period from May 10, 2005 through December 31, 2006.
12. The Commission's audit determined that the Committee accepted \$35,950 in contributions from corporations and LLCs during the 2006 election cycle.
13. Of these prohibited contributions, the Committee failed to refund within 30 days of receipt \$20,300 in contributions from corporations. It also failed to ascertain the entity status of the LLCs within 30 days of receipt as required by 11 C.F.R. §§ 103.3(b) and 110.1(g)(5) with respect to the \$15,650 in contributions from the LLCs.
14. The Committee has now refunded or attempted to refund all of the corporate contributions.
15. The Committee has demonstrated that \$15,150 of the LLC contributions identified in the audit were from LLCs that did not elect to be treated as corporations under IRS rules. It has refunded the remaining \$500 in contributions from two LLCs identified in the audit that elected corporate tax status. The Committee also identified and refunded an additional \$1,250 contribution from an LLC that was impermissible.
16. The Commission determined that the Committee accepted contributions totaling \$10,900 that exceeded the limits established by 2 U.S.C. § 441a(a)(1)(A).

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17. The Committee failed, within 60 days of receipt of the excessive contributions, or portions thereof, to refund them, to obtain proper written redesignations or reattributions, or to notify contributors that it had redesignated or reattributed them.

18. The Committee has now obtained written redesignations from contributors for \$10,500 in excessive contributions and has refunded the remaining \$400 excessive contribution at the contributor's request.

V. Respondents committed the following violations:

1. The Committee violated 2 U.S.C. § 441a(f) by knowingly accepting excessive contributions.
2. The Committee violated 2 U.S.C. § 441b(a) by knowingly accepting prohibited contributions.

VI. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Nine Thousand Five Hundred Dollars (\$9,500), pursuant to 2 U.S.C. § 437g(a)(5)(A).
2. Respondents will cease and desist from violating 2 U.S.C. §§ 441a(f) and 441b(a).
3. Respondents will disgorge to the U.S. Treasury \$1,800 in uncashed refund checks.
4. Within 45 days from the date this agreement becomes effective, the Committee will advise the Commission in writing whether late-issued refund checks to three contributors totaling \$800 were cashed and will disgorge to the U.S. Treasury an amount equal to any uncashed checks.

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

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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. 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 for Enforcement

Date

5/14/10

FOR THE RESPONDENTS:


Charlie Stuart for Congress and Charlie Stuart,
in his official capacity as treasurer

Date

4/22/10

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