

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 4530
Howard Glicken)

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 Howard Glicken ("Respondent") violated 2 U.S.C. § 441e(a).

NOW, THEREFORE, the Commission and Respondent, 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 Respondent 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. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondent enters voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:

PARTICIPANTS

- 1. Howard Glicken is Chairman of the Americas Group, a corporate consulting and merchant banking firm based in Miami, Florida and was a fund-raiser for the Democratic National Committee ("DNC") during the relevant period.

Mr. Glicken also was a Vice-Chair of the Democratic Business Council, the DNC's donor program for the business and corporate community and a former Chairman of the College Democrats of America.

2. ACPC, Inc. ("ACPC") is a Delaware corporation incorporated on February 3, 1987.
3. Alfredo Riviere, Ph.D., a Venezuelan national, was President of ACPC, Inc. during the relevant period.
4. Charles Dusseau was Florida's Secretary of Commerce during the relevant period.

LAW

5. Foreign nationals are prohibited from contributing money, or anything of value, to a candidate for any political office, including Federal, State, or local office, either directly or through any other person, pursuant to 2 U.S.C. § 441e(a) and 11 C.F.R. § 110.4(a).
6. Foreign nationals are also prohibited from directing, dictating, controlling, or directly participating in the decision-making process of any person, including domestic corporations, with regard to decisions concerning the making of contributions in connection with elections for any local, State, or Federal office.
11 C.F.R. § 110.4(a).
7. A foreign national is an individual who is neither a citizen of the United States nor a lawfully admitted permanent resident, as defined by section 1101(a)(20) of Title 8. 2 U.S.C. § 441e(b).

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FACTS

8. A few weeks prior to April 16, 1996, Dr. Riviere was in Florida investigating a site to construct a cable plant for ACPC. During the course of a meeting with Charles Dusseau, who was promoting Florida as a site for the plant, Mr. Dusseau asked Dr. Riviere if ACPC would be interested in making a contribution to the DNC. Dr. Riviere was advised that he would receive a telephone call from Howard Glicken, who had committed to raise \$250,000 for the DNC's Presidential Gala of April 29, 1996 in Florida and was designated a co-chair of the event.
9. Some days later, Mr. Glicken called Dr. Riviere, and by letter dated April 12, 1996, Mr. Glicken solicited Dr. Riviere to become a Trustee of the DNC by making a \$50,000 contribution. The solicitation letter was on DNC letterhead under Mr. Glicken's signature as Director, DNC National Finance Board. The solicitation was addressed to Dr. Riviere in Caracas, Venezuela. ACPC made the \$50,000 contribution on April 16, 1996. As President of ACPC, Dr. Riviere, a foreign national, directly participated in the company's decision to make the contribution.
10. On July 20, 1998, Mr. Glicken pled guilty to two misdemeanor counts of soliciting a \$20,000 contribution from a foreign national and causing a contribution to be made in the name of another. On November 24, 1998, Mr. Glicken was placed on 18 months probation, ordered to complete 500 hours of community service and fined \$80,000, payable in two installments of \$40,000 by November 1999 and \$40,000 by May 2000. In addition, Mr. Glicken entered

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into a conciliation agreement with the Commission concerning the same activity under which he is obliged to pay a \$40,000 civil penalty by two installments of \$2,500 within 30 days of the effective date of the agreement and \$37,500 by May 31, 2000. Since resolution of that matter, Respondent has provided documentation showing that his business has deteriorated significantly, his income has ceased, and he has been diagnosed with and is undergoing treatment for a serious illness. In recognition of these factors, the Commission has agreed to a significantly lower civil penalty than it normally would for the violation at issue.

11. As a representation material to the Commission's agreement to accept a significantly lower civil penalty than it normally would for the violation at issue, by signing this agreement, Howard Glicker represents that he has no available assets out of which he could pay a significant monetary penalty; that his liabilities far exceed his assets, and that his monthly income has ceased.

V. Respondent solicited a \$50,000 contribution from ACPC in violation of 2 U.S.C. § 441e(a).

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Five Thousand dollars (\$5,000), pursuant to 2 U.S.C. § 437g(a)(5)(A), such payment to be paid as follows:

1. One initial payment of \$2,500 payable upon submission by Respondent of the signed agreement.
2. Additional payments over the following five months of \$500 per month, for a total of \$2,500.

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3. In the event that any installment payment is not received by the Commission by the fifth day of the month in which it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to the respondents. Failure by the Commission to accelerate the payments with regard to any overdue installment shall not be construed as a waiver of its right to do so with regard to future overdue installments.

VII. Respondent undertakes and agrees that at the Commission's written request, on reasonable notice and without service of a subpoena, Respondent will produce all relevant documents to the Commission staff and make himself available for depositions and interviews by the Commission staff, if so requested, during the pendency of this and related matters under review and at any judicial proceedings brought by the Commission as a result of its investigation in this and related matters under review.

VIII. 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.

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

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:

Lawrence M. Noble
General Counsel

BY: *Lois G. Lerner*
Lois G. Lerner
Associate General Counsel

May 9, 2000
Date

FOR THE RESPONDENT:

[Signature]
Howard Glicken

April 13, 2000
Date

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