

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MURs: 4530 and 4531
International Buddhist Progress Society, Inc.)
d/b/a Hsi Lai Buddhist Temple)

CONCILIATION AGREEMENT

This matter was initiated in part by signed, sworn, and notarized complaints by the DNC Services Corporation/Democratic National Committee ("DNC") and the Christian Coalition, and was also based in part on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. An investigation was conducted, and the Commission found probable cause to believe that the International Buddhist Progress Society, Inc. d/b/a Hsi Lai Buddhist Temple ("the Temple") knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f in connection with contributions made to the DNC and other political committees during 1993-1996, and violated 2 U.S.C. § 441b(a) through corporate facilitation in connection with an April 1996 DNC luncheon held at the Temple. The Commission further found probable cause to believe that Abbess Tzu Jung (Suh Jen Wu) and Venerable Yi Chu, as corporate officers, knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f in connection with some or all of these contributions, and violated 2 U.S.C. § 441b(a) through corporate facilitation in connection with the April 1996 DNC luncheon, and that Venerable Man Ho knowingly and willfully violated 2 U.S.C. § 441f in connection with the contributions. The Commission also found reason to believe that Maria Hsia ("Hsia") knowingly and willfully violated 2 U.S.C. § 441f in connection

with all of the above contributions and that Hsia, but not the Temple or its monastics, knowingly and willfully violated 2 U.S.C. § 441e(a) with respect to 1996 contributions to the DNC.

NOW, THEREFORE, the Commission and the Respondent, on behalf of itself and its present and former directors, officers, employees, monastics, and devotees, having participated in informal methods of conciliation, 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 Commission has found probable cause to believe that:

1. The Temple is a corporation organized pursuant to the laws of the State of California, with its headquarters in Hacienda Heights, California. Affiliated with the Fo Kuang Shan Buddhist Order, whose founder and spiritual leader is Master Hsing Yun, the Temple is the largest Buddhist monastery in the Western Hemisphere. The Temple is also a tax-exempt religious organization pursuant to 26 U.S.C. § 501(c)(3) of the Internal Revenue Code. As a tax-exempt religious organization, the Temple is not permitted to participate in political campaigns on behalf of candidates for public office. The Temple's Articles of Incorporation, which were filed in 1978, state that "the corporation shall not participate or intervene in any political campaign . . . on behalf of any candidates for political office."

2. The Federal Election Campaign Act of 1971, as amended (the "Act"), prohibits corporations from making contributions or expenditures in connection with any election of any candidate for federal office. 2 U.S.C. § 441b(a). The term "contribution" includes any direct or indirect payment, distribution, loan, advance, deposit or gift of money, or any services, or anything of value to any candidate, campaign committee, or any political party or organization, in connection with federal elections. 2 U.S.C. § 441b(b)(2). 11 C.F.R. § 114.2(f)(1) prohibits corporations from facilitating the making of contributions to candidates or political committees. "Facilitation" means using corporate resources or facilities to engage in fundraising activities in connection with federal elections. *Id.* Among other things, improper facilitation includes "[p]roviding catering or other food services operated or obtained by the corporation. . . unless the corporation. . . receives advance payment for the fair market value of the services."

11 C.F.R. § 114.2(f)(2)(i)(E).

3. The Act also prohibits any person from making a contribution in the name of another person or knowingly permitting his or her name to be used to effect such a contribution. 2 U.S.C. § 441f. This prohibition extends to persons who knowingly assist in making such contributions. 11 C.F.R. § 110.4(b)(1)(iii). The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. 2 U.S.C. § 431(8)(a)(i).

4. Funds from the Temple's bank accounts were used to reimburse in excess of \$120,000 in contributions made in the names of other persons to the federal account of the DNC and to other federal committees during 1993-1996. With a few exceptions, the contributions

reimbursed by the Temple came from the checking accounts of the Temple's monastics (monks or nuns) and devotees (lay persons who worship regularly at the Temple).

5. On or about September 21, 1995, a fund-raising event was held in Los Angeles, California, sponsored by the Clinton/Gore '96 Primary Committee, Inc. ("Clinton/Gore '96"). Maria Hsia, a Temple devotee and immigration consultant to the Temple and others, contacted Man Ho, a monastic who served as administrative assistant to the Temple's abbess. Hsia requested contributions in connection with this event. Yi Chu, a monastic who was the Temple's treasurer and chief financial officer, collected \$2,500 checks from two individuals and reimbursed the individuals from one of the Temple's bank accounts.

6. On or about November 11, 1995, a fund-raising event for Senator Edward Kennedy was held at a residence in California. Prior to the event, Hsia contacted Man Ho and requested \$3,000 in contributions. Yi Chu collected from two individuals contributions of \$1,500 each which went to Kennedy for Senate committees, and reimbursed these two individuals from one of the Temple's bank accounts.

7. On or about February 19, 1996, the DNC sponsored a fund-raising dinner at the Hay Adams Hotel in Washington, D.C., attended by President Clinton. On or about February 20, 1996, the DNC sponsored a fund-raising breakfast at the same hotel, attended by Vice President Gore. Hsia contacted Man Ho and requested \$25,000 in contributions. Yi Chu collected a total of \$25,000 in checks to the DNC from nine individuals and reimbursed these individuals from one of the Temple's bank accounts.

8. On April 29, 1996, the DNC sponsored a luncheon at the Temple, attended by Vice President Gore. Man Ho, Hsia's assistant Matthew Gorman, and DNC fund-raiser John

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Huang worked on preparations for this event. On April 28, Man Ho gave Huang a list of guests the Temple expected at the event, with a notation next to each name of the amount each person had contributed, or was expected to contribute, to the DNC. Prior to the event, \$45,000 was raised from Temple devotees, including \$10,000 in cash contributed by two devotees who wished to remain anonymous. Yi Chu reimbursed, from one of the Temple's bank accounts, three individuals who wrote checks totaling \$10,000 to the DNC to account for the \$10,000 in cash that had been contributed by the two devotees who wished to remain anonymous.

9. On April 30, 1996, the day after the Temple event, Hsia told Man Ho that Huang had hoped the Temple's devotees could contribute more money to the DNC, mentioning a total amount of \$100,000, and that he needed to take it back to Washington, D.C. later that same day. When Man Ho told Yi Chu that the DNC wanted a total of \$100,000, Yi Chu, aware that \$45,000 had been raised prior to the event, approached monastics and devotees and asked them to contribute \$5,000 each. Yi Chu collected a total of \$55,000 in \$5,000 checks from 11 individuals and reimbursed all but one of these individuals (another individual had actually contributed \$10,000, and received two reimbursement checks) with checks drawn on one of the Temple's bank accounts. On the evening of April 30, 1996, Huang received the checks collected by the Temple. The DNC tracking forms for each of the checks list Hsia as the "solicitor."

10. The Temple paid for the food and other items in preparation for the April 29, 1996 event. On October 18, 1996, the DNC sent the Temple a check for \$15,000, with a cover letter stating that it represented "reimbursement of the estimated costs of space, food, beverage and other services and facilities provided to the DNC in connection with an event held at Hsi Lai Temple on April 29, 1996."

11. On July 22, 1996, the DNC sponsored a fund-raising event at the Century Plaza Hotel in Los Angeles, California, attended by President Clinton. Prior to the July 22 event, Hsia contacted Man Ho and told her the event would require a \$5,000 contribution per person. Yi Chu collected \$5,000 checks to the DNC from two individuals, and reimbursed each of these individuals with checks from one of the Temple's bank accounts.

12. Hsia and the Friends of Patrick J. Kennedy '96 committee scheduled an event at the Temple on October 5, 1996, attended by Congressman Kennedy. Prior to the event, Hsia contacted Man Ho, and requested \$5,000 in contributions. Yi Chu gave Man Ho five checks, with blank payee lines, drawn on a Temple bank account, and Man Ho gave the five checks to Hsia. These checks were used to reimburse five individuals, including Hsia, for \$1,000 contributions that each of them made on October 5, 1996 to Friends of Patrick J. Kennedy '96.

V. On April 4, 2000, the Commission found probable cause to believe that the conduct of the Temple, Abbess Tzu Jung, Yi Chu and Man Ho was not in accordance with the Act and the Commission's regulations. On June 17, 1997 and June 2, 1998, the Commission had found reason to believe that the conduct of Hsia was not in accordance with the Act and the Commission's regulations. Respondent contends that no such violations occurred under the law and existing regulations or were proved in this matter. However, in order to settle this matter, Respondent will not further contest the Commission's probable cause findings.

VI. Respondent contends that its alleged conduct is mitigated by the religious, linguistic and cultural differences of the individuals involved. The Temple further contends that

it has voluntarily undertaken the following corrective actions in response to the allegations which form the basis for the Commission's probable cause findings:

1. In October 1999, the Temple replaced its controller with an individual educated in the United States;

2. The Temple has retained an experienced accountant as a consultant for the Temple;

3. The Temple has retained a California attorney who has experience in advising tax exempt and religious organizations; and

4. The Temple's new controller has instituted contribution guidelines, which the Temple intends to retain in substantially similar form, and which provide the following:

From time to time, the Temple makes donations to worthwhile charities and colleges in its own name. Contributions are made only to public service communities, educational institutions and nonprofit organizations. All decisions concerning contributions must be approved by at least the director of the Temple. [Proof] from the charitable organizations must be received before the contributions are made.

The International Buddhist Progress Society is exempt from Federal income taxes as a religious organization under section 501(c)(3) of the Internal Revenue Code. This law prohibits any religious organization from participating in any political campaign on behalf of or in opposition to any candidate for public office. This is an absolute prohibition, and failure to comply can result in the loss of tax exemption.

No contributions or payments shall be made out of Temple accounts to any political candidate or political party, either directly or through the reimbursement of any individual from Temple funds.

No Temple leader or staff, acting in any capacity for the Temple, shall solicit, direct or instruct any monastic, devotee or other member to vote for, make a contribution to or work for or against any political candidate or political party. This would include any Temple leader, acting in an official capacity, urging support for or opposition to any political candidate at any Temple function or in any Temple publication during an election period.

No political candidate or political party shall be allowed to use Temple facilities, including any publications, for any event under circumstances that would suggest that the Temple is supporting, endorsing, or opposing any candidate or political party.

VII. Respondent will pay a civil penalty to the Federal Election Commission in the amount of One Hundred Twenty Thousand Dollars (\$120,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

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. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to pay the civil penalty to the Commission as required by Section VII above.

XI. This Conciliation Agreement is conclusive and final, is a complete bar to any further action by the Commission against Respondent or any of its present or former directors, officers, employees, monastics or devotees in connection with the matters described herein except as provided in Section VIII above, and constitutes the entire agreement between the parties on the matters raised herein; and no other statement, promise, or

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agreement, either written or oral, made by either party or by agents of any party, that is not contained in this written agreement shall be enforceable.


FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

11/27/00
Date

FOR THE RESPONDENT:


Barry S. Simon
Counsel for Hsi Lai Buddhist Temple

11/7/00
Date

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