

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 )  
Phillip J. Maloof ) MUR 4759  
Friends of Phil Maloof and Dolores Gonzáles, )  
as treasurer )  
Supporters of Phil Maloof and Theresa Keaveny, )  
as treasurer )

**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized complaint by John Dendahl, Chairman of the Republican Party of New Mexico. The Federal Election Commission ("Commission") found reason to believe that Phillip J. Maloof ("Maloof") violated 2 U.S.C. § 432(e)(1), and that Friends of Phil Maloof and Dolores Gonzáles, as treasurer ("Friends of Phil Maloof") and Supporters of Phil Maloof and Theresa Keaveny, as treasurer ("Supporters of Phil Maloof"), each violated 2 U.S.C. § 441d(a).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to findings 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. Phillip J. Maloof was a candidate for Federal office within the meaning of 2 U.S.C. § 431(2) in the 1998 general election for a seat in the House of Representatives from New Mexico's First Congressional District (hereinafter "the general election"). Maloof was also a candidate for Federal office within the meaning of 2 U.S.C. § 431(2) in the 1998 special election for that same seat.

2. Friends of Phil Maloof is a political committee within the meaning of 2 U.S.C. § 431(4). Friends of Phil Maloof was Maloof's principal campaign committee, within the meaning of 2 U.S.C. § 431(5), for the regularly scheduled 1998 primary and general elections in New Mexico's First Congressional District.

3. Dolores Gonzáles is the treasurer of Friends of Phil Maloof.

4. Supporters of Phil Maloof is a political committee within the meaning of 2 U.S.C. § 431(4). Supporters of Phil Maloof was Maloof's principal campaign committee, within the meaning of 2 U.S.C. § 431(5), for the June 23, 1998 special election for the vacant seat in New Mexico's First Congressional District.

5. Theresa Keaveny is the treasurer of Supporters of Phil Maloof.

6. The term "candidate" means an individual who seeks nomination for election, or election, to Federal office. 2 U.S.C. § 431(2).

7. Pursuant to 2 U.S.C. § 432(e)(1) and 11 C.F.R. §§ 101.1 and 105.1, a candidate for the Federal office of Representative in the Congress shall, no later than fifteen days after becoming a candidate, designate in writing a political committee to serve as the principal campaign committee of such candidate. Such designation shall be made by filing a Statement of

Candidacy on FEC Form 2, or by filing a letter containing the information required in FEC Form 2, at the offices of the Commission.

8. Pursuant to 2 U.S.C. § 441d(a), a communication which is paid for and authorized by a candidate or an authorized political committee of a candidate, and which expressly advocates the election or defeat of a clearly identified candidate, or solicits any contribution, through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, must contain a disclaimer. The disclaimer must clearly state that the communication has been paid for by the candidate's authorized political committee.

9. On January 14, 1997, Phillip J. Maloof announced his candidacy for a seat in the United States House of Representatives from New Mexico's First Congressional District. Maloof did not file a Statement of Candidacy designating his principal campaign committee until February 11, 1998.

10. In May 1998, Supporters of Phil Maloof mailed 108,000 fliers expressly advocating his election which did not contain the required disclaimer.

11. During the course of the elections, 30 four-by-eight foot outdoor signs which advocated Maloof's election, and which had been paid for equally by Friends of Phil Maloof and Supporters of Phil Maloof, were posted at various locations around the district. Although these signs contained the same logo as other official campaign materials, they did not contain the required disclaimer.

12. Supporters of Phil Maloof issued 3,000 invitations for a June 17, 1998 fundraiser to be held at the home of Mrs. Colleen Maloof, which did not contain the required disclaimer.

13. Respondent Maloof contends that there was extensive press coverage of the announcement of his candidacy on January 14, 1997. Respondent Maloof further contends that he was not personally aware of the absences of the disclaimers and that a consulting firm retained to manage the day-to-day operation of the campaign failed to exercise appropriate and necessary supervision over these matters.

V. 1. Phillip J. Maloof failed to timely file his Statement of Candidacy for the 1998 general election, in violation of 2 U.S.C. § 432(e)(1).

2. Friends of Phil Maloof and Dolores Gonzáles, as treasurer, failed to include required disclaimers on outdoor signs expressly advocating Maloof's election, in violation of 2 U.S.C. § 441d(a).

3. Supporters of Phil Maloof and Theresa Keaveny, as treasurer, failed to include required disclaimers on fundraising invitations, fliers and outdoor signs expressly advocating Maloof's election, in violation of 2 U.S.C. § 441d(a).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Seven Thousand, Five Hundred dollars (\$7,500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

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.

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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:

Lawrence M. Noble  
General Counsel

BY:

Lois G. Lerner  
Lois G. Lerner  
Associate General Counsel

Date

6/7/00

FOR THE RESPONDENTS:

Phillip J. Malachuk  
(Name)

(Position)

candidate for House of  
Representative from  
New Mexico's First  
Congressional District  
Phil Malachuk

May 10, 2000  
Date