



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA FIRST CLASS MAIL

JAN 28 2004

John W. Vardaman, Esq.
Williams & Connolly LLP
725 Twelfth Street, NW
Washington DC 20005

RE: MUR 4818
Gene Stipe

Dear Mr. Vardaman:

On January 23, 2004, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 441f and 441a(a)(1)(A), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter as it pertains to Mr. Stipe.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in cursive script, reading "Margaret J. Toalson".

Margaret J. Toalson
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Gene Stipe

MUR 4818

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Senators Don Nickles and James M. Inhofe, and Representatives Tom Coburn, Ernest Istook, Jr., Steve Largent, Frank D. Lucas, Wes W. Watkins and J.C. Watts, Jr., and their respective campaign committees (collectively "Complainants"). An investigation was conducted, and the Federal Election Commission ("Commission") found probable cause to believe that Gene Stipe ("Respondent") knowingly and willfully violated 2 U.S.C. §§ 441f and 441a(a)(1)(A).

NOW, THEREFORE, the Commission and the Respondent, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding.
- 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:

Actors

1. Walter L. Roberts was a candidate for Oklahoma's Third Congressional District in 1998. Roberts is also an artist and the owner of an auction company located in McAlester, Oklahoma.

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2. Walt Roberts for Congress was the political committee within the meaning of 2 U.S.C. § 431(4) for Roberts.
3. The primary election for the Democratic nomination to represent Oklahoma's Third Congressional District, which Roberts ran in, occurred on August 25, 1998. Roberts received the most votes in the primary, but not enough to avoid a runoff election, held on September 15, 1998. The general election occurred on November 3, 1998.
4. Gene Stipe was the founder of the Stipe Law Firm (the "Firm") located in McAlester, Oklahoma, where he was a senior partner until 2003. Mr. Stipe was also an Oklahoma state senator representing a portion of Southeastern Oklahoma, and a political mentor and friend to Roberts. Mr. Stipe was involved in running Roberts' campaign, from making strategic decisions to hiring and firing of staff.
5. Charlene Spears was an employee at the Firm and Stipe's personal assistant. Spears was involved in the Roberts' campaign, making decisions on campaign purchases, instructing staff, and handling some of the campaign's banking.
6. James Lane was a former majority leader of the Oklahoma state senate and is a friend of Stipe and Roberts. Lane was an advisor to Roberts during the campaign.
7. Mike Blessington is an attorney working out of the Stipe Law Firm, and a personal friend of Stipe.
8. Louise Crosslin, now deceased, was a long-time friend and former business partner of Gene Stipe.

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9. Michael Mass is an acquaintance of Stipe.
10. Larry Morgan is an acquaintance of Stipe.
11. Paul and Edith Beavers are acquaintances of Stipe.
12. Harold Massey, Sr., is an acquaintance of Stipe.

Applicable Law

13. The Federal Election Campaign Act of 1971, as amended (the "Act"), makes it unlawful for any person to contribute to any candidate and his authorized political committee for Federal office to \$1,000 per election.
2 U.S.C. § 441a(a)(1)(A). Nor can an individual make contributions aggregating more than \$25,000 in any calendar year. 2 U.S.C. § 441a(a)(3).
14. It is also unlawful for any person to make a contribution in the name of another, or for any person to knowingly permit his or her name to be used to make such a contribution. Moreover, no person may knowingly help or assist any person in making a contribution in the name of another. 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b)(1)(iii).
15. Treasurers of a political committee must file reports of receipts and disbursements in accordance with the provisions of the Act. 2 U.S.C. § 434.

Factual Background

16. Over the course of several months in 1998, Stipe made contributions to Walt Roberts for Congress, disguising them, with the help and assistance of others, as otherwise legitimate and non-related transactions. In one scheme Stipe made a \$67,500 contribution and disguised it through an elaborate "cattle sale" that never occurred. In another scheme Stipe made a \$55,000

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contribution and disguised it through a purported option contract. A third scheme involved the payment of \$17,000 by the Stipe Law Firm for advertising expenses that never occurred. In yet another scheme, Stipe made a \$20,500 contribution but disguised it as the sale of a stock trailer when no sale actually occurred. Stipe also made surreptitious payments to Roberts for his personal expenses, reimbursements to Lane for Roberts' campaign expenses and contributions disguised as a legitimate art auction. In addition, Stipe made \$89,689 in contributions by transferring the money to others who then transferred the money to 39 straw contributors.

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17. On February 12, 1998, Roberts filed his Statement of Candidacy and began campaign operations. From mid-February, 1998 through mid-April, 1998, the Committee used the Stipe Law Firm as campaign headquarters. The Stipe Law Firm's fax machine, copy machines, computers and video equipment were used for the campaign. Mr. Stipe authorized this use of Stipe Law Firm office space and equipment. However, the Committee never paid the Stipe Law Firm for the use of these facilities, resulting in an in-kind contribution.
18. In March, 1998, Stipe told Roberts that Lane would buy a livestock trailer that Roberts' owned, however, the money ultimately originated from Stipe. On March 29, 1998, Mr. Lane wrote a check to Roberts' Auction Company for \$20,500 allegedly for the trailer. Roberts' Auction Company then wrote Walt Roberts for Congress a check for that same amount which the Committee then deposited on April 9, 1998, into its own account. Meanwhile, Stipe had already given a cashier's check to Mr. Lane for \$20,000, to cover the

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purported sale, which Mr. Lane deposited on April 6, 1998 into his own account. Therefore, the \$20,500 contribution which appeared in the Committee's disclosure reports as a contribution from Walt Roberts was really a \$20,000 contribution from Gene Stipe and a \$500 contribution from James Lane.

19. In addition, from May to July, 1998, at Stipe's direction, Spears also gave four checks payable to Lane or "cash" from Stipe's bank account totaling approximately \$24,000. Spears instructed Lane to use this money to pay for campaign expenses of Walt Roberts for Congress. In May through July, 1998, Lane used these approximately \$24,000 worth of checks to pay for campaign expenses of Walt Roberts for Congress. Often Lane would use his personal credit card to pay for Roberts' campaign expenses, then paying the bill with monies he obtained from Spears.

20. In September 1998, at Stipe's direction, Spears gave Lane five additional checks payable to Lane or "cash" from Stipe's bank account, this time totaling \$22,980. Lane received a check \$3,500 dated September 1, 1998, a check for \$2,490 dated September 3, 1998, a check for \$2,490 dated September 3, 1998, a check for \$9,500 dated September 9, 1998, and a check for \$5,000 dated October 12, 1998. Spears again instructed Lane to use this money to pay for campaign expenses of Walt Roberts for Congress, which Lane did in September and October 1998. Walt Roberts for Congress never reported either Lane's \$24,000 or Lane's \$22,980 in contributions made to pay campaign expenses as coming from Stipe or Lane.

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21. In early 1998, Stipe had conversations with Spears and expressed his desire to get Walt Roberts elected to Congress. After these conversations, Stipe gave money to Spears and others, including Michael Mass, Larry Morgan, Paul Beavers and Edith Susie Beavers, and Harold Massey, Sr., with the intent that they would distribute it to others to make contributions to Roberts' campaign. Spears approached others and gave money to a number of straw contributors, asking them to make contributions with this money to Walt Roberts' campaign in their own names. The money was either given directly by Spears to the straw contributors or through third persons. As a direct result of these reimbursements, Stipe has admitted that at least 94 contributions were made by Stipe totaling at least \$89,689.

22. On August 6, 1998, Stipe told Roberts that he would make a contribution of \$67,500 to Walt Roberts for Congress for a media purchase. Mr. Stipe then instructed Ms. Spears on the same day to pay Roberts \$67,500 from his personal bank account. The next day, Mr. Roberts deposited this check into his Auction Company bank account, and then transferred \$67,500 to Walt Roberts for Congress. That same day, the committee wired \$67,500 to a media company to for campaign advertisements. Roberts reported this money as a loan from his personal funds. Mr. Stipe told Mr. Roberts if there were questions about where the money came from, then he should say it was from "the sale of cattle," when no cattle sale, in fact, ever took place. In late August, however, after increased scrutiny from the media, Mr. Stipe directed Mr. Roberts to make a cattle purchase to further the deceptiveness of the

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scheme involving this contribution. In this separate transaction, Stipe purchased cattle from sellers in Texas for \$60,900. The cattle arrived at Stipe's ranch in early September. Stipe's assistant, Charlene Spears, then drew up two cashier's checks. One check was for \$40,900 and the other for \$20,000. Stipe told Spears to withdraw the money from his accounts, knowing that the purpose of these checks was to conceal the fact that the \$67,500 payment was a campaign contribution and not for cattle.

23. In August, 1998, Stipe and Roberts agreed to sign a handwritten document known as an "Option Agreement." This document, drafted by Mike Blessington in August, 1998, claimed to give Stipe a one-half interest in Roberts' art work in exchange for annual \$35,000 payments. Later in August, 1998, Stipe and Roberts signed the alleged option contract, and dated it December 12, 1997. On August 19, 1998, Spears gave Roberts a check for \$70,000, which Roberts deposited into his Auction House account. On the same day, \$55,000 of this money was used for campaign media purchases, but never disclosed on his campaign reports. Both Stipe and Roberts knew and purposefully had the option contract drafted to conceal Stipe's payment for the campaign media ads.

24. In August, 1998, Stipe told Roberts that his law firm, the Stipe Law Firm, would pay him \$17,000 purportedly for services performed and to be performed by Roberts for the firm. Stipe and Roberts did not intend for Roberts to perform any work for the law firm at any time for the \$17,000 payment. This payment was deposited in Roberts' Auction Company bank

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account on August 17, and on the same day, the Walt Roberts for Congress committee deposited a \$17,000 check from the Auction House into the committee's bank account.

25. During all of 1998, Stipe paid Roberts' personal expenses, totaling \$37,070.

Third party payments of a candidate's personal expenses are contributions unless the payment would have been made irrespective of the candidacy.

11 C.F.R. § 113.1(g)(6). Stipe made no payments to Roberts in the 10 years preceding Roberts' congressional candidacy, however, Stipe made monthly \$3,500 payments to Roberts throughout the Commission's investigation and until approximately August, 2003. Stipe continued making payments to Roberts during the Commission's investigation to conceal the fact that the payments in 1998 were intended to further Roberts' candidacy.

26. On September 11, 1998, Walt Roberts held an auction for some of his art and sculptures through his auction company. The true purpose of this auction was to fund the Roberts' campaign. Stipe instructed Spears to recruit others to bid on items at the auction for which he would then reimburse. Stipe directed Spears to draw up a check for \$45,250 to Crosslin, for these art purchases.

27. Initially, Stipe denied that he made any of the above contributions to the Walt Roberts for Congress committee, and denied that any of the above schemes to conceal the contributions occurred.

28. On March 26, 2003, Stipe was charged with perjury under 18 U.S.C. § 1621, and two counts of conspiracy under 18 U.S.C. § 371. On April 1, 2003, Stipe pleaded guilty to perjury, a felony violation of 18 U.S.C. § 1621, conspiracy to

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obstruct a Commission investigation, a felony violation of 18 U.S.C. § 371, and conspiracy to violate the Act, a misdemeanor violation of 18 U.S.C. § 371. As part of his plea, Stipe agreed with the United States Department of Justice to pay a criminal fine of \$490,378 for violating 18 U.S.C. § 371, by conspiring to violate the Federal Election Campaign Act.

29. Stipe now admits that the above transactions occurred.

Violations

V. Respondent Gene Stipe knowingly and willfully violated 2 U.S.C. §§ 441f and 441a(a)(1)(A) by making excessive contributions to Walt Roberts for Congress in the names of others. Respondent will cease and desist from violating 2 U.S.C. §§ 441f and 441a(a)(1)(A).

Civil Penalty

VI. 1. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Two Hundred Sixty-Seven Thousand Dollars (\$267,000), pursuant to 2 U.S.C. § 437g(a)(5)(B).

2. The Commission understands that Stipe has yet to be sentenced by the United States District Court for the District of Columbia ("Court") pursuant to his criminal pleading related to this Matter. The Commission also understands that the Court may impose a criminal penalty other than the amount agreed upon by Stipe and the United States Department of Justice. If the Court imposes a criminal fine less than \$490,378, then Respondent agrees the civil penalty in Paragraph VI.1. will be increased by the difference between \$490,378 and what the Court imposes. Respondent shall have no more than ten business days from the date the criminal fine is imposed to comply with and implement the requirements of this Paragraph.

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Other Provisions

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. Respondent shall have no more than thirty days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement.

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IX. 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 H. Norton
General Counsel

BY:

Rhonda J. Vosdigh 1/28/04
Rhonda J. Vosdigh Date
Associate General Counsel
for Enforcement

FOR THE RESPONDENT:

Gene Stipe 1-7-04
Gene Stipe Date

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