

5019

BEFORE THE FEDERAL ELECTION COMMISSION**In the Matter of:**

)
)
Keystone Corporation, Keystone Corp.)
Political Action Committee, and)
Monte Miller, as treasurer)

MUR: 5019**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized complaint by David Plouffe, executive director of the Democratic Congressional Campaign Committee. The Federal Election Commission ("Commission") found reason to believe that Keystone Corporation ("the State Committee") violated 2 U.S.C. §§ 441b and 433, and 11 C.F.R. § 102.5. The Commission also found reason to believe that the Keystone Corp. Political Action Committee and its treasurer ("the Federal Committee") violated 2 U.S.C. §§ 441b, 441a(a)(1)(A), 434(b), 434(a)(4)(A), and 433(c); and 11 C.F.R. §§ 102.5, 106.6(a), 104.10(b)(4), and 114.5.

NOW, THEREFORE, the Commission and the State Committee and the Federal Committee (collectively, "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 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:

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Political Committee Status

1. The Federal Committee is a political committee within the meaning of 2 U.S.C. § 431(4) and has been registered with the Commission since July 1998.
2. Monte Miller is treasurer of the Federal Committee. Prior to April 21, 1999, Gregory Denuc was treasurer.
3. The State Committee is a registered Nevada PAC within the meaning of *Nev. Rev. Stat. Ann.* § 294A.0055.
4. Monte Miller is treasurer of the State Committee.
5. Respondents effectively operate a single political committee that conducts both federal and nonfederal campaign activity.
6. The Federal Election Campaign Act of 1971, as amended ("the Act"), requires all political committees to register with the Commission by submitting a statement of organization. 2 U.S.C. § 433.
7. In July 1998, when the State Committee decided to expand its activities to include contributions to candidates for federal office, it created the Federal Committee. Based on a misunderstanding of law, Respondents filed a statement of organization with the Commission that erroneously indicated that the Federal Committee was a separate segregated fund of the State Committee, which was identified as a connected membership organization.
8. In accordance with 11 C.F.R. § 102.5, Respondents should have registered with the Commission as a single political committee conducting both federal and nonfederal activity.

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Allocation of Joint Activities

9. A political committee that conducts both federal and nonfederal activity may either set up one federal account that supports both federal and nonfederal candidates or set up two accounts, one for federal elections and the other for state elections. 11 C.F.R. § 102.5(a). When two accounts are used, shared expenses must be allocated between the accounts. 11 C.F.R. § 106.6(a).
10. A committee that conducts both federal and nonfederal activity may pay shared expenses either by: (1) paying the entire amount of the expenses from its federal account and transferring funds from its nonfederal account to cover the nonfederal share of the expenses; or (2) establishing a separate allocation account into which funds from its federal and nonfederal accounts shall be deposited solely for the purpose of paying shared expenses. 11 C.F.R. § 106.6(c).
11. A political committee that pays allocable expenses in accordance with 11 C.F.R. § 106.6(e) shall also report each disbursement from its federal account or its separate allocation account for a joint federal and non-federal expense. 11 C.F.R. § 104.10(b)(4).
12. From July 1998 through the present, Respondents did not allocate \$145,907 in shared administrative expenses.
13. From July 1998 through September 26, 2000, the Federal Committee did not report any administrative expenses.
14. Pursuant to 11 C.F.R. § 106.6(c), the federal share of administrative expenses was \$9,936.

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15. From July 1998 through the present, Respondents did not allocate \$12,772 in shared fundraising expenses.
 16. Pursuant to 11 C.F.R. § 106.6(d), the federal share of fundraising expenses was \$2,981.
 17. From July 1998 through September 26, 2000, the Federal Committee did not report any fundraising expenses.
 18. The Federal Committee has never made direct disbursements for administrative or fundraising expenses.
 19. After this enforcement matter was initiated, the Federal Committee reimbursed the State Committee \$8,000 for administrative and fundraising expenses. Because the total federal share of administrative and fundraising activities is \$12,917, the Federal Committee still owes \$4,917 to the State Committee.

Corporate Contributions

20. Political committees under the Act are prohibited from directly or indirectly receiving contributions from corporations. 2 U.S.C. § 441b.
21. The State Committee has received over \$54,000 in contributions from corporations, which is permitted under Nevada law.
22. The State Committee directly paid \$158,679 for the federal and nonfederal share of administrative and fundraising expenses. These disbursements were made from the same account that received corporate contributions.

Multicandidate Committee Status

23. The Federal Committee qualified to register as a multicandidate committee on March 30, 2000, when it fulfilled the requirements of 2 U.S.C. § 441a(a)(4).

24. A political committee shall certify to the Commission that it has satisfied the criteria for becoming a multicandidate committee by filing an FEC Form 1M before it makes any contributions to candidates that exceed \$1,000 per election. 11 C.F.R. § 102.2(a)(3).
25. The Federal Committee made contributions to Friends of Jon Porter and Ensign for Senate that exceeded \$1,000 per election before filing an FEC Form 1M, although after it had qualified to register as a multicandidate committee.

Disclosure Reports

26. The Act requires each treasurer of a political committee to file periodic reports of receipts and disbursements. 2 U.S.C. § 434(a)(1).
27. In a calendar year in which a regularly scheduled general election is held, committees that choose to file on a quarterly basis shall file quarterly reports no later than the 15th day after the last day of each calendar quarter, except that the report of the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following year. 2 U.S.C. § 434(a)(4)(A)(i). Committees must also file a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election. 2 U.S.C. § 434(a)(4)(A)(iii)
28. In a calendar year in which an election does not occur, committees must file two reports. The first covers the period beginning January 1 and ending June 30 and must be filed by July 31. 2 U.S.C. § 434(a)(4)(A)(iv). The second report covers the period beginning July 1 and ending December 31, which must be filed by January 31 of the following calendar year. *Id.*

29. The 1998 Post-General Report, which covered the period from October 1, 1998 to November 23, 1998, was due December 3, 1998. The Federal Committee filed an incomplete report on December 9, 1998, 6 days late. The report disclosed activity only through November 3, 1998, when the report should have covered activity through November 23, 1998. The incomplete report disclosed disbursements of \$3,500, with no receipts.
30. The 1998 Year End Report, which covered the period from November 24, 1998 to December 31, 1998, was due January 31, 1999. The Federal Committee filed this report on April 5, 2000, 64 days late. The report disclosed no receipts or disbursements.
31. The 2000 April Quarterly Report, which covered the period from January 1, 2000 to March 31, 2000 was due April 15, 2000. The Federal Committee filed this report on June 8, 2000, 54 days late. The report disclosed receipts of \$2,725 and disbursements of \$9,000.
32. The 2000 July Quarterly Report, which covered the period from April 1, 2000 to June 30, 2000, was due July 15, 2000. The Federal Committee filed this report on July 20, 2000, 5 days late. The report disclosed receipts of \$8,200 and no disbursements.
33. The 2000 October Quarterly Report, which covered the period from July 1, 2000 to September 30, 2000, was due October 15, 2000. The Federal Committee filed this report on November 7, 2000, 23 days late. The report disclosed disbursements of \$8,000 and no receipts.

Statement of Organization

34. The Act requires that any change in information previously submitted in a statement of organization, such as a change in treasurer, shall be reported no later than 10 days after the date of the change. 2 U.S.C. § 433(c).
35. On April 21, 1999, Monte Miller replaced Gregory Denuc as treasurer of the Federal Committee. The Federal Committee did not amend its statement of organization to reflect this change until October 11, 2001.

V. Respondents committed the following violations:

1. Respondents failed to properly register with the Commission as a political committee that conducts both federal and nonfederal campaign activity in violation of 2 U.S.C. § 433.
2. Respondents failed to allocate shared administrative and fundraising expenses in violation of 11 C.F.R. §§ 102.5 and 106.6(b)(2).
3. Respondents did not report any allocable administrative or fundraising expenses in violation of 11 C.F.R. § 104.10(b)(4).
4. Respondents made direct expenditures from their nonfederal account to pay for the federal share of allocable activities in violation of 2 U.S.C. § 441b and 11 C.F.R. §§ 102.5 and 106.6(e).
5. Respondents made direct expenditures from their nonfederal account to pay for the nonfederal share of allocable activities in violation of 11 C.F.R. § 106.6(e).
6. From its inception until September 26, 2000, the Federal Committee never reported any administrative or fundraising expenses in violation of 2 U.S.C. § 434(b)(4).

7. **The Federal Committee failed to timely notify the Commission of its multicandidate committee status in violation of 11 C.F.R. § 102.2(a)(3).**
8. **The Federal Committee failed to timely file a 1998 Post-General Report, a 1998 Year End Report, a 2000 April Quarterly Report, a 2000 July Quarterly Report, and a 2000 October Quarterly Report, in violation of 2 U.S.C. § 434(a)(4)(A).**
9. **The Federal Committee failed to timely file an amendment to its statement of organization to denote a change in treasurer in violation of 2 U.S.C. § 433(c).**

VI. Respondents will take the following actions:

1. **Respondents will pay a civil penalty to the Federal Election Commission in the amount of eleven thousand dollars (\$11,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).**
2. **Respondents will cease and desist all activities that caused the aforementioned violations.**
3. **The Federal Committee will file an FEC Schedule H1 for the 1998, 2000, and 2002 election cycles to reflect the allocation ratios for shared administrative expenses. Using Schedule H2, the Federal Committee will file allocation ratios for all previous fundraising events at which federal and nonfederal funds were collected. Additionally, using Schedule H4, the Federal Committee will amend its disclosure reports and itemize all previous shared administrative and fundraising expenses.**
4. **The Federal Committee will amend its 1998 Post-General Report to account for a gap in coverage.**

5. The Federal Committee will reimburse \$4,917 to the State Committee, representing the outstanding federal share of allocable expenses that were paid by the nonfederal account.

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.

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.

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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 H. Norton
General Counsel

BY:

Rhonda J. Vosdigh
Rhonda J. Vosdigh
Associate General Counsel

8/29/02
Date

FOR THE RESPONDENTS:

E. Mal. Bush
(Name)
(Position)

Aug 13 2002
Date

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