

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Benton for Congress, and)
Don Benton, acting as treasurer) MUR 5066
)
)

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
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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 probable cause to believe that Benton for Congress, and Don Benton, acting as treasurer ("Respondents") violated 2 U.S.C. §§ 434(a)(6)(A) and 441a(f); and 11 C.F.R. §103.3(b)(3), (4), and (5).

NOW, THEREFORE, the Commission and the Respondents, 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 Respondents and the subject matter of this proceeding.

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 and violations of law in this matter are as follows:

1. Benton for Congress ("Committee") is a political committee within the meaning of 2 U.S.C. § 431(4). The Committee was the principal campaign committee of the candidate, Don Benton, during the 1998 election cycle for his candidacy for the United States House of Representatives.

2. Don Benton is the acting treasurer of the Committee.

3. The Federal Election Campaign Act of 1971 ("Act"), as amended, provides that no person shall make contributions to any candidate or authorized committee with respect to any election for federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). Candidates and their committees are prohibited from knowingly accepting any contributions in excess of the Act's limitations. 2 U.S.C. § 441a(f); *see also* 11 C.F.R. § 110.9(a). Contributions made "with respect to any election" means, in the case of a contribution not designated in writing by the contributor for a particular election, the next election for the federal office after the contribution is made. 11 C.F.R. §§ 110.1(b)(2) and 110.2(b)(2). Contributions which exceed the contribution limitations of the Act on their face, and contributions which do not exceed the Act's limitations on their face but which do exceed those limitations when aggregated with other contributions from the same contributor, may either be deposited into a campaign depository or returned to the contributor. 11 C.F.R. § 103.3(b)(3). If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution in accordance with 11 C.F.R. §§ 110.1(b), 110.1(k), or 110.2(b). If a written redesignation or reattribution is not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution, refund the contribution to the contributor. 11 C.F.R. § 103.3(b)(3).

4. Respondents received excessive contributions from 19 individuals totaling \$13,488. Respondents did not obtain written redesignations or reattributions of the excessive contributions within 60 days from the date that the Committee received such contributions. Therefore, respondents were required to refund the excessive contribution amounts within 60 days of receipt of such contributions. Despite this requirement, Respondents did not refund any of these

contributions within the 60 day time period. Subsequently, pursuant to Commission recommendations, the Committee refunded excessive contributions in the amount of \$90.

5. The principal campaign committee of a candidate shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. 2 U.S.C. § 434(a)(6)(A). This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. 2 U.S.C. § 434(a)(6)(A).

6. The Committee failed to file 48-Hour notices on 16 contributions totaling \$26,000 for the general election held on November 3, 1998.

V.1. Respondents accepted and retained excessive contributions in the amount of \$13,488 from 19 individuals in violation of 2 U.S.C. § 441a(f) and 11 C.F.R. § 103.3(b)(3), (4), and (5).

2. Respondents failed to file 48-Hour notices on 16 general election contributions in the amount of \$26,000 in violation of 2 U.S.C. § 434(a)(6)(A).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of \$4,038 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.

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:




Gregory R. Baker
Acting Associate General Counsel

10/26/01

Date

FOR THE RESPONDENT:



Donald F. McGahn II
Attorney

10-5-01

Date

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