

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 5150
Missouri Democratic State Committee,)
and Donna Knight, as treasurer)

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 reason to believe the Missouri Democratic State Committee, and Donna Knight, as treasurer ("Respondent") accepted excessive contributions pursuant to 2 U.S.C. §§ 441a(a)(1)(C) and 441a(a)(2)(C) in violation of 2 U.S.C. § 441a(f). In addition, the Commission found reason to believe that Respondent violated 11 C.F.R. § 102.5(a).

NOW, THEREFORE, the Commission and the Respondent, 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 the 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 pertinent facts in this matter are as follows:

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1. No person shall make contributions to a state party committee in any calendar year which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(1)(C). No multicandidate political committee shall make contributions to any other political committee in any calendar year which, in the aggregate, exceed \$5,000. 2 U.S.C. § 441a(a)(2)(C).

2. No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).

3. Contributions which on their face exceed the contribution limitations, and those which do not appear to be excessive on their face, but which exceed the contribution limits when aggregated with other contributions from the same contributor may be either 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 reattribution of the contribution by the contributor in accordance with 11 C.F.R. §§ 110.1(b), 110.1(k), or 110.2(b), as appropriate. If a reattribution is not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution, refund the contribution to the contributor. *Id.*

4. A contribution shall be considered to be reattributed to another contributor if (a) the treasurer of the recipient political committee asks the contributor whether the contribution is intended to be a joint contribution by more than one person, and informs the contributor that he or she may request the return of the excessive portion of the contribution if it is not intended to be a joint contribution; and (b) within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the

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treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be reattributed to each contributor if equal attribution is not intended. 11 C.F.R. § 110.1(k)(3)(ii).

5. Committees that have established separate federal and non-federal accounts under 11 C.F.R. § 102.5(a)(1)(i) or (b)(1)(i) shall pay the expenses of joint federal and non-federal activities as follows: the committee shall pay the entire amount of an allocable expense from its federal account and shall transfer funds from its non-federal account to its federal account solely to cover the non-federal share of that allocable expense, or the committee shall establish a separate allocation account into which funds from its federal and non-federal accounts shall be deposited solely for the purpose of paying the allocable expenses of joint federal and non-federal activities. Once a committee has established a separate allocation account for this purpose, all allocable expenses shall be paid from that account for as long as the account is maintained. 11 C.F.R. § 106.5(g)(1)(i) and (ii).

6. Committees that make disbursements in connection with federal and non-federal elections shall allocate expenses according to 11 C.F.R. § 106.5 for the following categories of activity: administrative expenses including rent, utilities, office supplies, and salaries, except for such expenses directly attributable to a clearly identified candidate; and generic voter drives including voter identification, voter registration, and get-out-the-vote drives, or any other activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate. 11 C.F.R. § 106.5(a)(2).

7. Missouri Democratic State Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

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8. Donna Knight is the treasurer of Missouri Democratic State Committee.

9. Respondent received contributions from 16 individuals which exceeded the limitation by \$72,250.

10. Respondent received contributions from two political action committees which exceeded the limitation by \$8,000.

11. With respect to nine of the contributions, Respondent transferred \$50,000 within 60 days of the receipt of the excessive contribution into a non-federal account. Respondent contends that the excessive portions of five additional contributions from individuals totaling \$25,000 were reattributed to spouses of the contributors more than 60 days from the date Respondent received the excessive contribution. However, Respondent did not present any evidence that it notified the contributors within 60 days of its receipt of the excessive contribution that they may seek a refund. Nor did Respondent present any evidence that it notified the contributors of the transfers to its non-federal account, or of the reattributions of the excessive portion of the contributions to their spouses.

12. Respondent requested written authorization from five contributors to reattribute the excessive portions of their contributions to spouses. Of the five contributors contacted by Respondent, three contributors requested refunds of their contributions which totaled \$25,250. Although Respondent made refunds to the three individuals, the refunds were not timely.

13. Respondent submitted letters to the Commission demonstrating that it requested redesignation and reattribution of the excessive contributions. The redesignation and reattribution letters were dated October 28, 1999 and November 9,

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1999. Because the requests to redesignate or reattribute the excessive contribution were not made within 60 days of Respondent's receipt of the contributions, this remedy was no longer available to Respondent.

14. Respondent made an untimely refund of \$25,250, and maintained excessive contributions in the amount of \$55,000.

15. Respondent maintained separate federal and non-federal accounts and did not utilize a separate allocation account.

16. The Commission identified 115 disbursements from Respondent's non-federal accounts totaling \$223,458 which were for allocable expenses. The disbursements were for administrative and generic voter drive expenses such as contract services, travel reimbursements, salaries, bonuses, printing and voter registration.

17. Based on the ballot composition ratio, the correct allocation percentage for these expenses was 22% federal and 78% non-federal. The federal share of the \$223,458 in allocable expenditures made from the non-federal accounts was \$49,161.

18. Respondent failed to provide documentation to demonstrate that the \$223,458 in expenses paid from the non-federal accounts related solely to non-federal activities; or absent such a showing, it failed to reimburse the non-federal account \$49,161, representing the federal portion of the allocable expenses paid by the non-federal accounts.

19. Respondent also received and deposited into a federal account 61 allocable refund/rebates from vendors totaling \$39,584. The refunds/rebates were related to payments of shared federal and non-federal expenses. The non-federal share of this amount was \$30,662.

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20. Respondent did not reimburse or otherwise make any adjustments to account for the non-federal share of these receipts.

V. Respondent contends that:

1. Respondent properly allocated expenditures between its federal and non-federal accounts.

VI. Respondent will reimburse its non-federal account \$30,662 which represents the non-federal share of refunds and rebates of allocable expenses that were deposited into the federal account.

VII. Respondent will pay a civil penalty to the Federal Election Commission in the amount of \$20,000.

VII. In the future, Respondent will refund, reattribute, or transfer to its non-federal account excessive contributions within 60 days of the receipt of the excessive contribution; and Respondent will notify the excessive contributors of their right to seek a refund of the excessive contribution within 60 of the receipt of the excessive contribution.

IX. 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.

X. 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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XI. Respondent 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.

XII. 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.

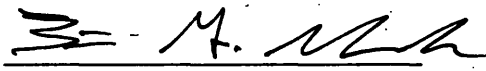
FOR THE COMMISSION:

Lois G. Lerner
Acting General Counsel

BY: 
Gregory R. Baker
Acting Associate General Counsel

3/27/01
Date

FOR THE RESPONDENT:


Brian G. Svoboda
Counsel

6 March 2001
Date

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