

# BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR: 5340  
 Democratic Party of New Mexico )  
 and Judy Baker, as Treasurer. ) MUR: 4789  
 )

## CONCILIATION AGREEMENT

Matter Under Review ("MUR") 5340 was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course carrying out its supervisory responsibilities. MUR 4789 was initiated by a signed, sworn, and notarized complaint filed with the Commission by the Republican Party of New Mexico, by and through its Chairman, John Dendahl. The Commission found reason to believe that the Democratic Party of New Mexico and Judy Baker, as Treasurer ("Respondents") violated 2 U.S.C. § 441a(f), 2 U.S.C. § 434(b)(8), 11 C.F.R. § 110.9(a), 11 C.F.R. § 104.3(d), and 11 C.F.R. § 104.11(a).<sup>1</sup>

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation prior to a finding of probable cause to believe that one or more violations occurred, 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 into pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

<sup>1</sup> All of the facts recounted in this agreement occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended (the "Act"), herein are to the Act as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA. All statements of the law in this agreement that are written in the present tense shall be construed to be in either the present or the past tense.

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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. The Democratic Party of New Mexico is a political committee within the meaning of 2 U.S.C. § 431(4) and has registered with the Commission as a political party pursuant to 11 C.F.R. § 102.1. The Democratic Party of New Mexico is neither a candidate committee nor a national party committee as those terms are used in 2 U.S.C. § 441a(a)(1)(C).

2. Judy Baker is the current Treasurer of the Democratic Party of New Mexico.

3. The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that no person shall make contributions to any political committee that is neither a candidate committee nor a national party committee, which, in the aggregate, exceed \$5,000 in any calendar year.

2 U.S.C. § 441a(a)(1)(C).

4. The Act provides that no political committee shall knowingly accept any contribution in violation of the contributions limitations in the Act.

2 U.S.C. § 441a(f); 11 C.F.R. § 102.9(a).

5. The Act requires that each treasurer of a political committee file financial reports with the Commission that include the political committee's

outstanding debts. 2 U.S.C. § 434(b)(8); 11 C.F.R. § 104.3(d);

11 C.F.R. § 104.11(a).

6. Respondents violated 2 U.S.C. § 441a(f) and 11 C.F.R. § 110.9(a) by accepting contributions in excess of the contribution limitations set forth in the Act from the following four individuals during calendar year 1998: Sallie Bingham (\$4,000); Brian Egolf (\$5,000); Ray Sena (\$400); and Michael Montoya (\$200). The total amount of excessive contributions accepted by the Committee from these four individuals in calendar year 1998 was \$9,600.

7. Respondents violated 2 U.S.C. § 434(b)(8), 11 C.F.R. § 104.3(d), and 11 C.F.R. § 104.11(a) by failing to report \$95,098.01 of debts on the following three financial reports that Respondents filed with the Commission: (1) the 1997 Year-End Report, filed on February 5, 1998 (\$59,199.60); (2) the 1998 April-Quarterly Report, filed on June 2, 1998 (\$18,900.10); and (3) the 1997 Pre-Special Election Report, filed on June 11, 1998 (\$16,998.31).

V. Respondents will pay a civil penalty to the Commission in the amount of \$10,000 pursuant to 2 U.S.C. § 437g(a)(5)(A).

VI. Respondents shall cease and desist from any further violations of 2 U.S.C. § 434(b)(8), 2 U.S.C. § 441a(f), 11 C.F.R. § 104.3(d), 11 C.F.R. § 104.11(a), and 11 C.F.R. § 110.9(a).

VII. The Commission, upon request by 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

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or any requirement thereof has been or is being 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 it and the Commission has approved the agreement.

IX. Respondents shall have no more than thirty (30) days from the date that 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 among the parties on the matters raised herein, and no other statement, promise or agreement, either written or oral, made by any party to this agreement or by agents of any party to this agreement, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton  
General Counsel

BY:   
Gregory R. Baker  
Acting Associate General Counsel

  
Date

FOR THE RESPONDENTS:

BY:   
Name/Title  
Counsel

  
Date