

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )

MUR 5359

2005 JAN 25 A 10: 14

Paul Williams )

Paul Williams for Congress )

and Michael Mundy, in his )

official capacity 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 that Paul Williams ("the Candidate") and Paul Williams for Congress and Michael Mundy, in his official capacity as treasurer, ("the Committee") violated numerous provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and the Commission's regulations.

NOW, THEREFORE, the Commission, the Candidate, and the Committee (collectively "the 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 the 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. The Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. The Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:<sup>1</sup>

1. Paul Williams for Congress is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Michael Mundy is the treasurer of Paul Williams for Congress.

3. Section 434(a) of the Act requires political committees to file reports of receipts and disbursements. 2 U.S.C. § 434(a); 11 C.F.R. § 104. Committees are required to maintain all relevant records and accounts for 3 years after the report is filed. 2 U.S.C. § 432(d); 11 C.F.R. § 102.9(c). Furthermore, a treasurer of a committee must use "best efforts" to obtain, maintain and submit the required information, and make at least one written effort to obtain a duplicate copy of an invoice, receipt or cancelled check for each disbursement over \$200. 11 C.F.R. § 102.9(d). The Committee failed to keep adequate records of its receipts and disbursements. The Committee failed to document name, address, date, and amount information for contributions totaling \$85,922. No records were obtained for \$3,227 of in-kind receipts and \$9,067 in receipts from political parties/committees. Also, the Committee failed to document \$126,234 of disbursements from its bank accounts.

4. The treasurer of a committee is responsible for disclosing the identification of any person who makes a contribution of more than \$200 during the calendar year. 2 U.S.C. § 434(b)(3)(A). The treasurer must provide an individual's name, mailing address, occupation and name of employer, and the treasurer must show that best efforts have been used to obtain the

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<sup>1</sup> 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, as necessary, depending on whether the statement would be modified by the impact of BCRA or the regulations thereunder.

information. 2 U.S.C. §§ 431(13) and 432(i). In instances where contributions lack the required information, a political committee and its treasurer will only be deemed to have exercised best efforts if the treasurer makes at least one effort to obtain the missing information within 30 days of receipt and files an amended Schedule A. 11 C.F.R. § 104.7(b)(2). The Committee incompletely or inaccurately itemized \$56,050 in contributions from individuals and \$9,167 in receipts from political committees. The Committee also failed to use "best efforts" to obtain missing contributor information. The Committee did not make any written or oral effort, within 30 days of receipt of the contribution, to obtain the missing information.

5. Committees are also required to disclose the amount and nature of outstanding debts and obligations. 2 U.S.C. § 434(b)(8); 11 C.F.R. § 104.3(d). The Committee reported a \$20,000 loan from the Candidate but failed to continually report the loan as an outstanding debt or obligation. 11 C.F.R. § 104.11.

6. Committees are also required to disclose the name and address of each person to whom an expenditure, in an aggregate amount or value exceeding \$200 in the calendar year, is made to meet a candidate or committee operating expense, together with the date, amount and purpose of the operating expenditure. 2 U.S.C. § 434(b)(5)(A); 11 C.F.R. § 104.3(b)(4)(i). The Committee failed to itemize \$6,781 of disbursements and inadequately itemized \$55,378 of disbursements.

7. The Act prohibits committees from making cash expenditures to any person in excess of \$100 per purchase or transaction. 2 U.S.C. § 432(h)(2); 11 C.F.R. § 102.11. Committees that utilize a petty cash fund must maintain a written journal of all disbursements. 11 C.F.R. § 102.11. The journal must include the name and address of every person to whom any disbursement is made, as well as the date, amount and purpose of the disbursement. *Id.* The

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Committee made 61 cash-machine withdrawals totaling \$16,918; fifty-nine of the withdrawals, totaling \$16,754, exceeded the \$100 limit on cash transactions. The Committee provided no records of the cash disbursements and failed to itemize the disbursements on the committee's disclosure reports.

8. No person may convert campaign funds to the personal use of the candidate or any other person. 2 U.S.C. § 439a; 11 C.F.R. § 113.2(d). "Personal use" is defined as any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign. 11 C.F.R. § 113.1(g). Examples of personal use include disbursements for household food items or supplies, mortgage, rent or utility payments, and meal, travel and vehicle expenses not associated with the campaign. 11 C.F.R. § 113.1(g)(1). The Candidate and the Committee used campaign funds totaling \$5,801 for personal use.

9. Committees are required to disclose the amount of cash on hand at the beginning of the reporting period and the total amount of receipts and disbursements for the reporting period and calendar year. 2 U.S.C. §§ 434(b)(1), 434(b)(2) and 434(b)(4). The Committee misstated their receipts, disbursements and cash on hand balances. The Committee overstated ending cash on hand by \$3,860, understated reported receipts by \$17,133, and understated reported disbursements by \$14,113.

10. The Act requires committees to deposit all receipts into a checking account at a designated campaign depository. 2 U.S.C. § 432(h)(1); 11 C.F.R. § 103.3(a). Committees must notify the Commission of all its designated campaign depositories. 11 C.F.R. § 103.1. The Act also requires committees to make all disbursements by checks or similar drafts drawn on an account at its designated depository, except for expenditures of \$100 or less made from a petty

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cash fund. 2 U.S.C. § 432(h)(1); 11 C.F.R. § 103.3(a). The Committee failed to deposit \$24,034 of receipts into a designated bank depository. The Committee also made 36 disbursement transactions totaling \$23,749 from an undisclosed campaign depository.

V. Violations

1. The Committee failed to maintain records in violation of 2 U.S.C. § 432(d) and 11 C.F.R. §§ 104.14(b) and 102.9(c).
2. The Committee failed to disclose contributions and exercise best efforts to obtain contributor information in violation of 2 U.S.C. §§ 432(i) and 434(b)(3)(A) and 11 C.F.R. § 104.7(b)(2).
3. The Committee failed to disclose and continually report outstanding debts and obligations in violation of 2 U.S.C. § 434(b)(8) and 11 C.F.R. §§ 104.3 and 104.11.
4. The Committee failed to report and itemize disbursements in violation of 2 U.S.C. § 434(b)(5)(A) and 11 C.F.R. § 104.3(b)(4).
5. The Committee made excess cash disbursements, in violation of 2 U.S.C. § 432(h)(2) and 11 C.F.R. § 102.11.
6. The Candidate and the Committee used campaign funds for personal use in violation of 2 U.S.C. § 439a and 11 C.F.R. § 113.2(d).
7. The Committee misstated financial activity in violation of 2 U.S.C. §§ 434(b)(1), 434(b)(2) and 434(b)(4).
8. The Committee failed to notify the Commission of all its campaign depositories and failed to deposit all of its receipts into its designated campaign depository, and made disbursements from undesignated campaign depositories in violation of 2 U.S.C. § 432(h)(1) and 11 C.F.R. §§ 103.1 and 103.3(a).

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VI. Respondents will cease and desist from violating the statutes and regulations enumerated in section V.

VII. The Candidate has assumed responsibility for the civil penalty and will pay a civil penalty to the Federal Election Commission in the amount of Six Thousand Dollars (\$6,000) pursuant to 2 U.S.C. § 437g(a)(5)(A). Such penalty shall be paid in three (3) installments as follows:

1. An initial payment of Two Thousand Dollars (\$2,000) is due immediately upon the Commission's acceptance of this agreement.

2. Thereafter, two monthly installments of Two Thousand Dollars (\$2,000) shall be paid; the second installment shall be paid within thirty days (30) of the date this Agreement becomes effective, and the final installment shall be paid within sixty days (60) of the date this Agreement becomes effective.

3. In the event that any installment is not received by the Commission on or before the date it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire unpaid balance of the civil penalty to become due upon ten (10) days written notice to the Candidate. Failure by the Commission to accelerate the payments with regard to any overdue payment(s) shall not be construed as a waiver of any kind.

VIII. The Candidate has provided documentation showing that he is unemployed and financially incapable of paying a significant civil penalty. In reliance on the Candidate's representations regarding his financial condition, the Commission has agreed to a significantly lower civil penalty than it normally would for the violations at issue.

1. As a representation material to the Commission's agreement to accept a significantly lower civil penalty than it normally would for the violations at issue, the Candidate

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represents that his companies, A Box Warehouse and PBS Moving Storage Installation, Inc., are no longer operational and the Candidate no longer conducts business through them. The Candidate also represents that he is no longer employed by Pinnacle Oil and Gas. By signing this agreement, the Candidate also represents that he currently has no available assets or income with which to pay a significant monetary penalty, that his liabilities far exceed his assets, that he is currently meeting his basic living expenses with financial assistance from his family and friends, that he has undisputed debts in excess of \$204,296, and that the materials he has submitted to the Commission to demonstrate his financial condition fairly and accurately represent his financial condition.

2. As a representation material to the Commission's agreement to substantially reduce the level of the civil penalty that the Commission would ordinarily accept for this type of activity, the Candidate represents that, as of the date he signs this Conciliation Agreement, his yearly net income after taxes, from all sources, totals less than \$20,000.

3. The Candidate agrees that the Commission's acceptance of this Conciliation Agreement is conditioned on the truthfulness and completeness of the representations made by the Candidate in Paragraph VIII, Subparagraphs 1 and 2 above. The Candidate further agrees that if any of these representations are false or omit material information concerning his current financial condition, such false statement or omission shall constitute a violation by the Candidate of this Conciliation Agreement and grounds for the Commission to obtain relief against the Candidate in a civil action pursuant to 2 U.S.C. § 437g(a)(5)(D). In such a civil action, if the court finds that the Candidate falsely stated or failed to disclose any material fact concerning his financial condition, the Candidate agrees that the Commission may seek a civil penalty in an amount up to the maximum amount provided by the Act. Should a court order relief in

connection with proceedings instituted under this Subparagraph, this Conciliation Agreement shall, in all other respects, remain in full force and effect.

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.

XI. The Respondents shall have no more than sixty (60) 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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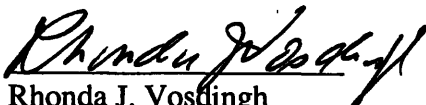


XII. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by any party or by agents of any party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton  
General Counsel

BY:

  
Rhonda J. Vosdingh  
Associate General Counsel  
for Enforcement

8/2/05  
Date

FOR THE RESPONDENTS:

  
Paul Williams

1-20-05  
Date

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