

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)

4)
5 Rod Grams for U.S. Senate)

MUR 5364

2003 NOV 24 A
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

6)
7)
8)
9 **CONCILIATION AGREEMENT**

10 This MUR was initiated by the Federal Election Commission ("Commission") pursuant
11 to information ascertained in the normal course of carrying out its supervisory responsibilities.

12 The Commission found reason to believe that Rod Grams for U.S. Senate ("Respondent")
13 violated 2 U.S.C. § 441a(f).

14 NOW THEREFORE, the Commission and the Respondent, having duly entered into
15 conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

16 I. The Commission has jurisdiction over the Respondent and the subject matter of this
17 proceeding.

18 II. Respondent has had a reasonable opportunity to demonstrate that no action should be
19 taken in this matter.

20 III. Respondent enters voluntarily into this agreement with the Commission.

21 IV. The pertinent facts and violations of law in this matter are as follows:¹

22 1. Rod Grams for U.S. Senate was the principal campaign committee of Rod Grams for
23 his campaign for the United States Senate 2000 primary and general election.

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

1 2. Christine Grams is the current treasurer for Rod Grams for U.S. Senate.

2 2. Christine Grams was not the Treasurer at the time of the events in question, however
3 Timothy B. Schmidt, of Lurie, Besikof, and Lapidus & Co. LLP, was the Committee's Treasurer
4 at the time of the events in question.

5 4. No person shall make contributions to any candidate and his authorized political
6 committee with respect to any election for Federal office which, in the aggregate, exceed \$1,000.
7 2 U.S.C. § 441a(a)(1)(A). No candidate or political committee shall knowingly accept any
8 contribution in excess of the contribution limitation. 2 U.S.C. § 441a(f).

9 5. Contributions which on their face exceed the applicable contribution limitations and
10 contributions which do not appear to be excessive on their face, but which exceed those limits
11 when aggregated with other contributions from the same contributor, may be either deposited
12 into a campaign depository under 11 C.F.R. § 103.3(a) or returned to the contributor. 11 C.F.R.
13 § 103.3(b)(3). If any such contribution is deposited, the treasurer may request redesignation or
14 reattribution of the contribution by the contributor in accordance with 11 C.F.R. § 110.1(b) or
15 § 110.1(k), as appropriate. 11 C.F.R. § 103.3(b)(3). If a redesignation or reattribution is not
16 obtained, the treasurer shall, within 60 days of the treasurer's receipt of the contribution, refund
17 the contribution to the contributor. 11 C.F.R. § 103.3(b)(3).

18 6. If a political committee does not retain the written records concerning designation
19 required under 11 C.F.R. § 110.1(l)(2), the contribution shall not be considered to be designated
20 in writing for a particular election, and the provisions of 11 C.F.R. § 110.1(b)(2)(ii) shall apply.
21 11 C.F.R. § 110.1(l)(5). If a contribution is not designated in writing by the contributor for a
22 particular election, it will be considered designated for the next election for that Federal office
23 after the contribution is made. 11 C.F.R. § 110.1(b)(2)(ii). If a political committee does not

1 retain the written records concerning redesignation or reattribution required under 11 C.F.R.
2 § 110.1(1), (2), (3) or (6), the redesignation or reattribution shall not be effective, and the
3 original designation or attribution shall control. 11 C.F.R. § 110.1(l)(5).

4 7. The Commission found that the Committee accepted excessive contributions from 172
5 individuals that totaled \$147,378 and six unregistered political committees that totaled \$2,975.
6 Thus, the total excessive contributions exceeded the applicable contribution limitation in
7 2 U.S.C. § 441a(a)(1)(A) by a total of \$160,353.

8 8. The Committee did not reattribute or redesignate the contributions within the 60-day
9 periods permitted by 11 C.F.R. § 110.1(b)(5)(ii)(B) or § 110.1(k)(3)(ii)(B); nor did the
10 Committee refund the contributions within the 60-day period permitted by 11 C.F.R.
11 § 103.3(b)(3).

12 V. The Respondent accepted excessive contributions in the amount of \$160,353
13 in violation of 2 U.S.C. § 441a(f).

14 VI. The Respondent will pay a civil penalty to the Federal Election Commission in
15 the amount of \$18,000.

16 VII. The Respondent will refund \$20,979 to contributors who made excessive
17 contributions when the Respondent is financially able to do so, which contributions are to be
18 refunded to the contributors who most recently made contributions to the Committee, in reverse
19 chronological order of the date such contributions were received.

20 VIII. The Respondent will report \$20,979 in refunds owed to contributors as the
21 Committee's continuing debt on Schedule C with the Commission, until the Respondent is
22 financially able to make refunds to the contributors.

23 IX. The Respondent will cease and desist from further violation of 2 U.S.C.

1 § 441a(f).

2 X. The Commission, on request of anyone filing a complaint under 2 U.S.C.
3 § 437g(a)(1) concerning the matters at issue herein, or on its own motion, may review
4 compliance with this agreement. If the Commission believes that this agreement or any
5 requirement thereof has been violated, it may initiate a civil action for relief in the United States
6 District Court for the District of Columbia.

7 XI. This agreement shall become effective as of the date that all parties thereto have
8 executed same and the Commission has approved the entire agreement.

9 XII. The Respondent shall have no more than 30 days from the date this agreement
10 becomes effective to comply with and implement the requirements contained in this agreement
11 and to so notify the Commission, except for paragraph VII and VIII.

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

16
17
18 FOR THE COMMISSION

19
20 Lawrence H. Norton
21 General Counsel
22

23
24
25 BY:

26 *Rhonda J. Vordingh LLC*
27 ~~Gregory R. Baker~~ RHONDA J. VORDINGH
28 Acting Associate General Counsel
29

2/5/04
Date

1 FOR THE RESPONDENT:

2 Rod Grams for U.S. Senate:

3
4 Christine Grams

5
6 By: Christine Grams, its Treasurer,
7 without recourse to Christine Grams individually

11/18/03
Date: _____

8
9
10
11
12