

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3
4 In the Matter of)

5)
6 Campbell for Senate and Charles P. Zahl,)
7 as Treasurer)

8)
9 Respondents)
10)

MUR 5372

11 **CONCILIATION AGREEMENT**

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14 This matter was initiated by the Federal Election Commission ("Commission"),
15 pursuant to information ascertained in the normal course of carrying out its supervisory
16 responsibilities. The Commission found reason to believe that Campbell for Senate
17 and/or Charles P. Zahl, as treasurer ("Respondents"): 1) failed to correctly itemize
18 transferred contributions as memo entries in violation of 2 U.S.C. §§ 434(b)(3)(A) and
19 434(b)(2); 2) failed to correctly disclose the financial activity on its account in violation
20 of 2 U.S.C. §§ 434(b)(1); 3) used campaign funds for personal use in violation of
21 2 U.S.C. § 439(a) and 11 C.F.R. § 113.1(g); and 4) accepted excessive contributions in
22 violation of 2 U.S.C. § 441a(f).

23 NOW, THEREFORE, the Commission and the Respondents having participated
24 in informal methods of conciliation, prior to a finding of probable cause to believe, do
25 hereby agree as follows:

26 I. The Commission has jurisdiction over the Respondents and the subject
27 matter of this proceeding and this agreement has the effect of an agreement entered
28 pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

29 II. Respondents have had a reasonable opportunity to demonstrate that no
30 action should be taken in this matter.

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1 III. Respondents enter voluntarily into this agreement with the Commission
2 for purposes of avoiding further costs and delays associated with further proceedings.

3 IV. The pertinent facts in this matter are as follows¹:

4 1. Political committees are required to disclose the identification of
5 each person who makes a contribution to the reporting committee during the reporting
6 period whose contribution(s) have an aggregate amount of value in excess of \$200 within
7 the calendar year or election cycle. 2 U.S.C. § 434(b)(3)(A).

8 2. Each political committee must file accurate disclosure reports on
9 the financial activity of its accounts. 2 U.S.C. § 434(b)(1), 434(b)(2).

10 3. A contribution or any other donation accepted by a candidate or
11 received by an individual in support for activities as a holder of Federal office may be
12 used by the candidate or individual for otherwise authorized expenditures in connection
13 with the campaign for Federal office of the candidate or individual; for ordinary and
14 necessary expenses incurred in connection with the duties of the individual as a holder of
15 Federal office; for contributions to an organization prescribed in section 170(c) of the
16 Internal Revenue Code of 1986; or for transfers, without limitation, to a national, State, or
17 local committee of a political party. 2 U.S.C. § 439(a).

18 4. A candidate, political committee or officer or employee of a
19 political committee cannot knowingly accept any contribution or make an expenditure in

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 ("Act"), herein are to the Act as it read prior to the effective date of the 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

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1 violation of any limitation imposed on contributions and expenditures under this section.

2 2 U.S.C. § 441a(f).

3 5. Campbell for Senate is a political committee within the meaning of
4 2 U.S.C. § 431(4).

5 6. Charles P. Zahl is the treasurer for Campbell for Senate.

6 V. Respondents failed to correctly itemize transferred contributions as memo
7 entries in violation of 2 U.S.C. § 434(b)(3)(A).

8 VI. Respondents failed to correctly disclose the financial activity on its
9 accounts in violation of 2 U.S.C. §§ 434(b)(1), 434(b)(2).

10 VII. Respondents used campaign funds for personal use in violation of
11 2 U.S.C. § 439(a). The audit identified three items that appeared to be expenditures for
12 the benefit of the Treasurer. The Respondents have now submitted documentation
13 demonstrating that one of these items was a legitimate campaign expense and the
14 Treasurer reimbursed the Respondent for the remaining two expenses.

15 VIII. Respondents accepted excessive contributions in violation of 2 U.S.C.
16 § 441a(f). At no time, however, did the Commission determine that the 2000 primary or
17 general elections were funded by the contributions at issue in this agreement.

18 IX. Respondents will pay a civil penalty to the Federal Election Commission
19 in the amount of \$79,000 pursuant to 2 U.S.C. § 437g(a)(5)(A). The Commission has not
20 characterized the violations contained herein as knowing and willful violations of the
21 Act. In addition, Respondents will refund its non-curable excessive contributions in a

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

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1 proportionate amount not to exceed \$104,434 in accordance with the schedule previously
2 provided to Respondent by the Commission. Respondents will also provide copies of
3 canceled checks as evidence of the refunds.

4 X. Respondents also agrees to cease and desist from the commission of
5 further violations of the Federal Election Campaign Act and regulations and the specific
6 violations alleged to have occurred as discussed above in paragraphs I through VIII in the
7 future. Respondents will file amendments to its report for the period ending December
8 31, 1999, by attaching as a memo entry a listing of attributed contributions for the four
9 transfers totaling \$902,418 during the month of December 1999, using schedules
10 previously provided to Respondents by the Commission on September 10, 2003.

11 XI. The Commission, on request of anyone filing a complaint under 2 U.S.C.
12 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review
13 compliance with this agreement. If the Commission believes that this agreement or any
14 requirement thereof has been violated, it may institute a civil action for relief in the
15 United States District Court for the District of Columbia.

16 XII. This agreement shall become effective as of the date that all parties hereto
17 have executed the same and the Commission has approved the entire agreement.

18 XIII. Respondents shall have no more than 30 days from the date of this
19 agreement becomes effective to comply with and implement the requirements contained
20 in this agreement and to so notify the Commission.

21 XIV. This Conciliation Agreement constitutes the entire agreement between the
22 parties on the matters raised herein, and no other statement, promise, or agreement, either

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1 written or oral, made by either party or by agents of either party, that is not contained in
2 this written agreement shall be enforceable.

3 FOR THE COMMISSION:

4 Lawrence H. Norton
5 General Counsel

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8 BY:

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Gregory R. Baker
Acting Associate General Counsel

10/31/03
Date

FOR THE RESPONDENT:


Charles P. Zahl
Treasurer

7 October 2003
Date

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