

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

) MUR 5382

) South Carolina Republican Party)
) and Glen O'Connell, as Treasurer)
)

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

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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 the South Carolina Republican Party and John Camp, as Treasurer (the "Respondents") violated 2 U.S.C. § 441b, and 11 C.F.R. §§ 102.5(a) and 104.14(b).

NOW, THEREFORE, the Commission and 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. 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 South Carolina Republican Party is a political committee within the meaning of 2 U.S.C. § 431(4).

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2. Glen O'Connell is the current treasurer of the South Carolina Republican Party. Mr. O'Connell was not the treasurer at the time of the activity addressed in this Agreement.

3. State party committees that finance activities with regard to both federal and non-federal elections must either establish a separate federal account into which may be deposited only contributions that are neither prohibited nor in excess of the statutory limitations, or, in the alternative, may establish a political committee which shall receive only contributions subject to the prohibitions and limitations of the Act. 1 C.F.R. § 102.5(a). However, all disbursements, contributions, expenditures and transfers made in connection with a federal election by a committee with separate federal and non-federal accounts must be made solely from the federal account, and no funds may be transferred into that account from a non-federal account except as provided by 11 C.F.R. §§ 106.5 and 106.6. 11 C.F.R. § 102.5(a)(1)(i).

4. A party committee that has established separate federal and non-federal accounts under 11 C.F.R. § 102.5 must pay the expenses of joint federal and non-federal activities in either one of two ways: (1) the committee shall pay the entire amount of an allocable expense from its federal account and subsequently transfer funds from its non-federal account solely to cover the non-federal share of that allocable expenses, or (2) the committee shall establish a separate allocation account into which funds from its federal and non-federal accounts are deposited solely for the purpose of paying the allocable expenses of joint federal and non-federal activities. 11 C.F.R. § 106.5(g)(1)(i) and (ii).

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5. Party committees making disbursements for specified categories of activities in connection with both federal and non-federal elections must allocate those expenses between federal and non-federal accounts in accordance with 11 C.F.R. § 106.5. These categories include administrative expenses, fundraising costs, the costs of certain activities which are exempt from the definition of "contribution" and "expenditure," and the costs of generic voter drives. 11 C.F.R. § 106.5(a)(2)(i-iv). In Advisory Opinion 1995-25, the Commission opined that legislative advocacy media advertisements that focus on national legislative activity and promote a national party should be considered as made in connection with both federal and non-federal elections, and their costs allocated in accordance with 11 C.F.R. § 106.5, unless the advertisements qualify as coordinated expenditures on behalf of any general election candidates pursuant to 2 U.S.C. § 441a(d). The Commission opined that the costs of such advertisements should be characterized as administrative expenses or generic voter drive costs pursuant to 11 C.F.R. §§ 106.5(a)(2)(i) and (iv).

6. The allocation formulas for state party committees to allocate their administrative and generic voter drive costs are found at 11 C.F.R. § 106.5(d). Pursuant to 11 C.F.R. § 106.5(d)(1), state party committees shall allocate such costs according to the ballot composition methods. Under this method, expenses shall be allocated based on the ratio of federal offices expected on the ballot to total federal and non-federal offices expected on the ballot in the next general election to be held in the committee's state or geographic area. See 11 C.F.R. § 106.5(d)(i) and (ii).

7. If a committee does not properly allocate expenditures between its non-federal and federal accounts and state law allows corporate and labor contributions, then the committee may violate 2 U.S.C. § 441b(a). Corporate and labor organization contributions and expenditures are prohibited in connection with a federal election. 2 U.S.C. § 441b(a). The State of South Carolina allows corporations and labor organizations to contribute up to \$3,500 per state election. SC ST §§ 8-13-1322, 8-13-1300(25).

8. Political committees must maintain records that provide sufficient information and data from which filed reports may be verified, explained, clarified and checked for accuracy and completeness, 11 C.F.R. § 104.14(b), and a treasurer must retain all documents supporting the committee's allocated disbursements for three years, 11 C.F.R. § 104.10(b)(5).

9. The chart below reflects adjustments in the Respondents' classification of disbursements to account for the appropriate allocation. As reflected in the chart, the Respondents overfunded the federal account with non-federal funds by \$108,839.40.

VENDOR	DESCRIPTION	ADJUSTMENT
Conquest Communications	Paid from Non-Federal Account	\$250.00
		(\$33,002.69)
Stevens Reed & Curcio	Paid from Non-Federal Account	\$4,266.71
Ballot Access Payment	Paid from Federal Account, Not Allocable	\$41,013.00
Strategic Telemarketing	Paid from Federal Account, adjusted for Fundraising Ratio	(\$7,272.71)
Strategic Telemarketing	Paid from Non-Federal Account,	\$49,181.81
Stevens & Schriber	Paid from Non-Federal Account	\$14,598.75
National Media	Paid from Federal Account	(\$40,678.75)

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VENDOR	DESCRIPTION	ADJUSTMENT
Non-Federal State & Local Account	Paid from Non-Federal Account	\$12,547.82
Non-Federal Operating Account	Paid from Non-Federal Account	\$146,720.47
Welch, Norman & Coley	Paid from Federal Account, adjusted for Fundraising Ratio	(\$3,132.50)
	Paid from Non-Federal Account	\$8,186.09
American Printing	Net Paid from Federal and Non-Federal Account	\$29,467.16
	Adjusted Amount of Non-Federal Overfunding of Allocable Expenses	\$108,839.40

10. Respondents failed to provide documentation to support their reported allocation of \$249,751 of payments to the Altus Group.

V. Respondents admit the following:

1. Respondents used non-federal accounts to make a portion of federal expenditures, and to pay allocable expenses, in violation of 2 U.S.C. § 441(b) and 11 C.F.R. § 102.5(a).
2. Respondents failed to provide documentation to support their reported allocation of \$249,751 of payments to the Altus Group in violation of 11 C.F.R. § 104.14(b).
3. Respondents will cease and desist from violating 2 U.S.C. § 441(b) and 11 C.F.R. §§ 102.5(a) and 104.14(b).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Sixty Thousand Dollars (\$60,000.00), pursuant to 2 U.S.C. § 437(g)(a)(5)(A), and will transfer \$108,839.40 from its federal account to its non-federal account. Respondents certify that they have transferred \$108,839.40 from its federal account to its non-federal account.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437(g)(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.


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

IX. Respondents 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.

X. 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:

Lawrence H. Norton
General Counsel

BY: 
Gregory R. Baker
Acting Associate General Counsel

11/4/03
Date

FOR THE RESPONDENTS:

Karl S Bowers Jr
(Name) Karl S. Bowers, Jr.
(Position) Counsel to the South Carolina
Republican Party and Glen
O'Connell, as Treasurer

October 23, 2003
Date