FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 30, 2004

VIA FACSIMILE AND FIRST CLASS MAIL

Thomas D. Vaughn, Esq.
Robert Hess, Esq.
Husch & Eppenberger, LLC
235 East High Street
PO Box 1251
Jefferson City, MO 65102-1251

RE: MUR 5447 (Missouri Republican State Committee—Federal Committee and Harvey M. Tettlebaum, as treasurer)

Dear Messrs. Vaughn and Hess:

On August 24, 2004, the Federal Election Commission accepted the signed conciliation agreement and civil penalty you submitted on behalf of your clients to settle violations of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, feel free to contact me at (202) 694-1572.

Best regards,

Brant S. Levine
Attorney

Enclosure:
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:	)	
	)	
Missouri Republican State Committee—	)	
Federal Committee and Harvey M.	)	MUR 5447
Tettlebaum, 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 the Missouri Republican State Committee— Federal Committee ("the Committee") and Harvey M. Tettlebaum, as treasurer, (collectively, "Respondents") violated 2 U.S.C. § 434(b) and 11 C.F.R. §§ 102.5(a) and 106.5(g).[1]

NOW, THEREFORE, the Commission and 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 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.

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[1] The facts relevant to this matter occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). All citations to the Federal Election Campaign Act of 1971, as amended ("the Act"), codified at 2 U.S.C. §§ 431 *et seq.*, and all statements of applicable law herein, refer to the Act and the Commission's implementing regulations as they existed prior to the effective date of BCRA.

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

IV. The pertinent facts in this matter are as follows:

1. The Committee is a political committee within the meaning of 2 U.S.C. § 431(4), and is not an authorized committee of any candidate.

2. Harvey M. Tettlebaum is the treasurer of the Committee and is a respondent in this matter only in his official capacity as treasurer.

3. The Act requires treasurers of political committees to file reports of receipts and disbursements in accordance with 2 U.S.C. § 434(a). Each report shall disclose the amount of cash on hand at the beginning and end of the reporting period, the total amount of receipts for the reporting period and for the calendar year, and the total amount of disbursements for the reporting period and the calendar year. 2 U.S.C. § 434(b).

4. A party committee that finances political activity in connection with both federal and nonfederal elections must either establish a federal and nonfederal account and allocate shared expenses between those two accounts or conduct all activity from a single federal account. 11 C.F.R. § 102.5(a)(1). Expenses for generic voter drives are one such type of shared federal and nonfederal activity that must be allocated between federal and nonfederal accounts. 11 C.F.R. § 106.5(a)(2)(iv).

5. A party committee must pay shared federal and nonfederal activity either entirely from its federal account (and transfer funds from the nonfederal account to the federal account to cover the nonfederal portion) or by establishing a separate federal allocation account into which the committee

deposits funds from both its federal and nonfederal accounts solely for the purpose of paying the allocable expenses of shared federal and nonfederal activity. 11 C.F.R. § 106.5(g)(1).

6. A political committee that allocates shared federal and nonfederal expenses must report each disbursement it makes from its federal account or separate allocation account for joint federal and nonfederal activity. 11 C.F.R. § 104.10(b)(4).

7. Pursuant to 2 U.S.C. § 438(b), the Commission audited the Committee's financial activity from January 1, 1999 through December 31, 2000. This audit revealed that the Committee failed to comply with the Act's requirements for conducting shared federal and nonfederal activity and that the Committee failed to properly report its financial activity:

   a. The Committee established a separate allocation account but failed to pay all shared federal and nonfederal activity from that account, including payments totaling $8,860,461 related to generic voter drives. Instead, the Committee paid $2,722,920 to six vendors directly from its federal account and $6,137,541 to the same vendors, for the same services, directly from its nonfederal account. The Committee also did not report the payments from its nonfederal account for these services on its federal disclosure reports.

   b. The Committee also failed to report or misreported an additional $1,558,281 in financial activity from January 1, 1999 through December 31, 2000. This figure includes contributions not reported; rebates and

refunds not reported; party committee transfers not reported; disbursements not reported; disbursements underreported; disbursements reported twice; transfers from or to the nonfederal account reported in error; transfers to the nonfederal account not reported; and other miscellaneous errors.

c. The Committee overstated its cash on hand on December 31, 2000 by $440,480.

8. Following the audit, the Committee complied with the recommendations of the Commission's Audit Division and amended its disclosure reports to correct the aforementioned misstatements of its financial activity.

9. The Committee contends that its accounting records and disclosure reports were prepared by paid staff and that errors were due to the inattention of its bookkeeper during the relevant time period. The Committee has since hired a certified public accountant comptroller to replace its former bookkeeper. The comptroller has attended two FEC training conferences and other legal compliance programs. The Committee has taken substantial steps to ensure that such errors do not occur in the future.

V. The Committee committed the following violations:

1. The Committee violated 2 U.S.C. § 434(b) by failing to properly report its receipts, disbursements, and cash on hand; and

2. The Committee violated 11 C.F.R. §§ 102.5(a) and 106.5(g) by failing to properly pay for shared federal and nonfederal disbursements.

VI. The Committee will take the following actions:

1. The Committee will pay a civil penalty to the Federal Election Commission in the amount of one hundred twenty-eight thousand dollars ($128,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. The Committee will cease and desist from violating 2 U.S.C. § 434(b) and 11 C.F.R. §§ 102.5(a) and 106.5(g).

3. The Committee will pay for all future allocable, shared federal and nonfederal expenses from its federal account and transfer funds from its nonfederal account to the federal account to cover the federal share of those expenses.

VII. 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.

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: Rhonda J. Vosdingh 8/25/04
Rhonda J. Vosdingh Date
Associate General Counsel

FOR THE RESPONDENTS:

Thomas Vaughn 8/12/04
Thomas Vaughn Date
Attorney for Respondents