



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

MAY 12 2005

VIA FACSIMILE to (816) 221-0786 and U.S. Mail

Thomas M. Bradshaw
Mischa M. Bastin
Armstrong Teasdale, LLP
2345 Grand Boulevard
Suite 2000
Kansas City, Missouri 64108

RE: MUR 5573
In the Matter of Carl M. Koupal, Jr.

Dear Messrs. Bradshaw and Bastin:

On May 10, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 110.6(b)(2)(ii) and 114.2(f), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter as it pertains to Carl M. Koupal, Jr.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the effective date of the conciliation agreement. If you have any questions, please contact me at (202) 694-1548.

Sincerely,

A handwritten signature in cursive script that reads "Elena Paoli".

Elena Paoli
Attorney

Enclosure

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 5573
Carl M. Koupal, Jr.)

CONCILIATION AGREEMENT

This matter was generated 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 Carl M. Koupal, Jr. (“Respondent”) violated 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 110.6(b)(2)(ii) and 114.2(f) of the Federal Election Campaign Act of 1971, as amended (“the Act”).¹

NOW, THEREFORE, the Commission and the Respondent, 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 Respondent 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. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

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

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). Unless specifically stated to the contrary, all citations to FECA, codified at 2 U.S.C. §§ 431 *et seq.*, the Commission’s implementing regulations and all statements of applicable law herein, refer to FECA and the Commission’s regulations as they existed prior to the effective date of BCRA.

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1. Westar Energy, Inc., (hereinafter "Westar") is an electric utility company incorporated in Kansas and headquartered in Topeka, Kansas. David Wittig was the Vice President of Corporate Strategy at Westar from 1995 to 1998 and its President and CEO from 1998 through November 7, 2002. Douglas Lake was Westar's Vice President for Corporate Strategy from 1998 through December 6, 2002. Carl M. Koupal, Jr. was employed at Westar from March 16, 1992 through October 31, 2001, and served as Executive Vice President and Chief Administrative Officer at the times relevant herein.

2. Corporations are prohibited from making contributions or expenditures from their general treasury funds in connection with any election of any candidate for federal office. 2 U.S.C. § 441b(a). In addition, section 441b(a) prohibits any officer or director of any corporation from consenting to any contribution or expenditure by the corporation.

3. Corporations (including officers, directors or other representatives acting as agents for the corporation) also are prohibited from facilitating the making of contributions. 11 C.F.R. § 114.2(f).

4. Facilitation includes, inter alia, directing staff to plan, organize, or carry out a fundraising project as part of their work responsibilities and using corporate resources and providing materials for the purpose of transmitting or delivering contributions, such as stamps, envelopes or other similar items. 11 C.F.R. § 114.2(f)(2)(ii).

5. Corporations also are prohibited from acting as conduits for contributions earmarked to candidates or their authorized committees. *See* 11 C.F.R. § 110.6(b)(2)(ii).

6. On September 20, 2000, Koupal sent a memorandum to Douglas Lake listing four federal candidate committees – Jim Ryun for Congress, Dennis Moore for Congress, Tiahrt for Congress and Moran for Kansas – to whom six Westar executives were asked to make

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contributions pursuant to a schedule created by David Wittig and Koupal. Koupal's memorandum to Lake said, "Please return these checks and we'll deliver them together."

7. As a result of the September 2000 solicitation, on October 16, 2000, four Westar executives and/or their spouses contributed \$4,250 via personal checks to Jim Ryun for Congress. On October 24, 2000, four Westar executives contributed \$2,750 via personal checks to Dennis Moore for Congress. On October 27, 2000, four Westar executives contributed \$2,500 via personal checks to Tiaht for Congress. On November 4, 2000, five Westar executives and/or their spouses contributed \$1,500 via personal checks to Moran for Kansas.

8. From October 16, 2000, to November 4, 2000, Westar executives contributed an additional \$2,500 to Jim Ryun for Congress. In total, the September 2000 solicitation resulted in \$13,500 in political contributions to federal candidate committees from Westar executives.

9. Koupal, acting for and on behalf of Westar, collected and forwarded or delivered these contributions to the recipient committees. Koupal contends that he did not know about the statutory and regulatory prohibitions relating to the activities described above and did not intend to violate any laws and/or regulations. Koupal further contends that at no time during his employment with Westar did counsel for Westar alert him to any laws or regulations that would prohibit the conduct described in paragraph 6, above.

10. The contributions collected and forwarded or delivered by Koupal total thirteen thousand and five hundred dollars (\$13,500) from October 16 to November 4, 2000.

V. Respondent participated in and/or consented to corporate facilitation of earmarked contributions and improper corporate conduit activity in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 110.6(b)(2)(ii) and 114.2(f).

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of seven thousand dollars (\$7,000), pursuant to 2 U.S.C. § 437g(a)(5)(B).

VII. Respondent will cease and desist from violating 2 U.S.C. § 441b(a) and 11 C.F.R. §§ 110.6(b)(2)(ii) and 114.2(f).

VIII. Respondent agrees that the Commission's acceptance of this agreement is conditioned on the truthfulness and completeness of information provided to the Commission. Respondent agrees to cooperate with the Commission in any proceeding against any other person regarding the Respondent's involvement in the facts and circumstances related to this matter. Respondent further agrees that if he falsely states or fails to disclose material information concerning the nature of the solicitations or the collection and delivery of the contributions, such false statement or omission shall constitute a violation by Respondent of this agreement.

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

X. 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.

XI. Respondent shall have no more than thirty days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement.

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 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. Vose Singh*
Rhonda J. Vose Singh
Associate General Counsel

5/12/05
Date

FOR THE RESPONDENT:

BY: *Carl M. Koupal, Jr.*
Carl M. Koupal, Jr.

18 March 2005
Date

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