FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

July 19, 2006

VIA FIRST CLASS MAIL

Donald F. McGahn II, Esq.
McGahn and Associates, PLLC
601 Pennsylvania Avenue, NW
Suite 900, South Building
Washington, DC 20004

RE: MUR 5675
Americans for a Republican Majority and Corwin Teltschik, in his official capacity as Treasurer

Dear Mr. McGahn:

On July 7, 2006, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of a violation of 2 U.S.C. § 434(b), a provision of the Act, and 11 C.F.R. §§ 102.5(a), 104.3(d), 104.10(b)(4), 104.11, 106.5(f) and 106.6. 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. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Lynn Tran

Lynn Y. Tran
Attorney

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	MUR 5675
	)	
Americans for a Republican Majority and Corwin Teltschik, in his official capacity as Treasurer	)	

CONCILIATION AGREEMENT

This matter originated with a complaint filed with the Federal Election Commission ("the Commission") by Citizens for Responsibility and Ethics in Washington and information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Americans for a Republican Majority ("the Committee") and Corwin Teltschik, in his official capacity as Treasurer, (collectively, "Respondents") violated 2 U.S.C. § 434(b) and 11 C.F.R. §§ 102.5(a), 104.3(d), 104.10, 104.11, 106.5(f) and 106.6.

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

2. Corwin Teltschik is the treasurer of the Committee and is a respondent in this matter only in his official capacity as treasurer.

3. The Federal Election Campaign Act of 1971, as amended ("the Act") requires treasurers of political committees to file reports of receipts and disbursements in accordance with 2 U.S.C. § 431(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, the total amount of disbursements for the reporting period and for the calendar year and certain transactions that require itemization on individual schedules. 2 U.S.C. § 434(b).

4. A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 2 U.S.C. § 434(b)(8) and 11 C.F.R. §§ 104.3(d) and 104.11(a). A political committee must file separate schedules for debts owed by the committee and debts owed to the committee, together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. 11 C.F.R. § 104.11(a). A debt exceeding $500 must be disclosed in the report that covers the date on which the debt was incurred. 11 C.F.R. § 104.11(b).

5. A political committee that finances political activity in connection with both federal and non-federal elections must establish a federal and non-federal 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)(i)(2002). A federal account may contain only those funds that are permissible under federal election law while the non-federal account may contain funds that are

not permissible under federal law, but are legal under state law. 11 C.F.R. §§ 102.5(a)(1)(i) and (a)(3)(2002).

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

7. Non-connected committees must allocate all their costs for generic voter drives. 11 C.F.R. § 106.6(b)(2)(iii). Administrative expenses and costs of generic voter drives are allocated between federal and non-federal accounts based on a ratio of federal expenditures to total federal and non-federal expenditures. The federal and non-federal expenditures used in this calculation are limited to expenditures made in direct support of candidates. 11 C.F.R. § 106.6(c)(1).

8. During the 2001-2002 election cycle, Commission regulations[1] required that administrative expenses and costs of generic voter drives are allocated between federal and non-federal accounts based on a ratio of federal expenditures to total federal and non-federal expenditures made by the committee during the two-year federal election cycle; per those regulations, this ratio shall be estimated and reported at the beginning of each federal election cycle, based on the committee's federal and non-federal disbursements in a prior comparable election cycle or upon the committee's reasonable prediction of its disbursements for the coming two years. Per the same applicable regulations, the federal and non-federal expenditures used in this calculation are limited to expenditures made for specific candidates. 11 C.F.R. § 106.6(c)(1)(2002).

[1] The Commission adopted new regulations, effective January 1, 2005, governing the allocation of joint federal and non-federal activity, supplanting the regulations that governed the Committee during the 2001-2002 election cycle.

9. A committee that raises both federal and non-federal funds through the same fundraising program or event must allocate the direct costs of the fundraising event based on the ratio of funds received by the federal account to the total amount raised for the event. 11 C.F.R. § 106.6(b)(2)(ii) and (d)(2002).

10. Pursuant to 2 U.S.C. § 438(b), the Commission audited the Committee's financial activity from January 1, 2001 through December 31, 2002. This audit revealed that the Committee failed to properly report its financial activity as follows:

a. The Committee failed to accurately report $74,295 in financial activity in 2001 and $166,340 in financial activity in 2002. These figures include in-kind contributions not reported or disclosed but not included in reported totals, reported receipts not supported by deposits, contributions not reported or reported incorrectly, transfers and disbursements from the non-federal account reported incorrectly, unreported operating expenditures, reported disbursements that were not adjusted, overstated expenditures and a voided expenditure reported in error.

b. The Committee failed to report debts and obligations to twenty-five vendors totaling $322,306.

c. The Committee established separate federal and non-federal accounts but failed to properly allocate expenses between the accounts resulting in the non-federal account overpaying its share of allocable expenses by $203,483. The Committee used incorrect ratios to allocate administrative and get-out-the-vote expenses and fundraising event expenses between the federal and non-federal account resulting in the non-federal account overpaying its portion of expenses for generic voter drives by $121,456 and for fundraising events by $9,414. The non-

federal account overpaid $95,386 in fundraising expenses that should have been charged to the federal account.

11. Following the audit, the Committee complied with the recommendations of the Commission's Audit Division and amended its disclosure reports to materially correct the aforementioned misstatements of its financial activities. The Committee also provided additional information reducing the overpayment of allocable expenses by the non-federal account from $211,281 to $203,483.

12. Also pursuant to the recommendations of the Commission's Audit Division, the Committee has since reimbursed the non-federal account $111,913.19 of the $203,483.

13. Respondents contend that its misstatements of financial activity was a small percentage of the total amount raised and spent by the Committee; specifically, in 2001, the misstatement of disbursements was less than 1% of its total disbursements; in 2002, the misstatement of disbursements was approximately 2% of its total disbursements.

14. Respondents also contend, with respect to the items alleged to be unreported debts and obligations, that such transactions were not reportable as debts and obligations either because certain transactions constituted regularly-occurring administrative expenses, or Respondents otherwise paid for all such matters within a commercially reasonable time; further, all actual payments related to these transactions were reported in a timely manner. Nonetheless, Respondents have amended their reports to show the items as debts and obligations, consistent with 2 U.S.C. § 434(b) and 11 C.F.R. §§ 104.3(d) and 104.11.

15. Respondents also contend that, with respect to its allocation of administrative and generic voter drive expenses, it relied in good faith upon the language of the Commission

regulation (and Commission publications), and its failure to properly allocate expenses was caused by its misunderstanding of the applicable Commission regulation.

16. Specifically, Respondents contend that with respect to its general fundraising, Respondents believed they could enter into separate contracts for its federal and non-federal fundraising; they understand now that the proper course would have been to pay its fundraising expenses either entirely out of the federal account, or on a ratio based upon the actual funds raised. See 11 C.F.R. § 106.5(f)(1)(2002).

17. Similarly, Respondents contend that it calculated its overhead ratio by including both direct and indirect non-federal candidate support in arriving at its 50% federal, 50% non-federal ratio, but now understands that the calculation of the ratio is limited to only direct non-federal candidate support. See 11 C.F.R. § 104.10(b)(4)(2002); 11 C.F.R. 106.6(b)(2)(iii)(2002); 11 C.F.R. § 106.6(c)(1)(2002). Respondents note that subsequent to the time period at issue, the Commission has changed the applicable regulation, and in so doing the Commission noted its complexity, confusion regarding the proper application of the regulation, and administrative burden of compliance.

18. Respondents further contend that due to the passage of the Bipartisan Campaign Reform Act (which became effective during the relevant two-year election cycle), the "two-year election cycle" referenced in the applicable regulation was cut short, and the Committee believed it was precluded from adjusting its ratio by way of a transfer from its federal to its non-federal account after the new law's effective date; but that once it received the interim recommendations from the Audit Division, Respondents began to implement those recommendations, and transferred funds from its federal account, and reported the difference as debt.

V. The Committee has 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.

2. The Committee violated 2 U.S.C. § 434(b) and 11 C.F.R. §§ 104.3(d) and 104.11 by failing to properly report outstanding debts and obligations.

3. The Committee violated 11 C.F.R. §§ 102.5(a), 104.10(b)(4), 106.5(f) and 106.6 by failing to properly pay for shared federal and non-federal disbursements.

VI. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of one hundred fifteen thousand dollars ($115,000.00) pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents will cease and desist from violating 2 U.S.C. § 434(b) and 11 C.F.R. §§ 102.5(a), 104.3(d), 104.10(b)(4), 104.11, 106.5(f) and 106.6.

3. Respondents will amend its reports to comport with this agreement and Respondents will file a termination report with the Commission, which will be processed in accordance with the applicable provision of the Act and Commission regulations.

4. Respondent Americans for a Republican Majority, through representations to the Commission, has indicated that it is unable to raise funds sufficient to make a complete transfer of the $91,569.81 due from the federal to the non-federal account. The Commission regards these representations as material representations. The Committee agrees that if it has any receipts in the amount of $5,000 or greater prior to termination, it will immediately transfer such amount to pay the debt to the non-federal account. The Committee further agrees that it shall not

make any expenditures in excess of $5,000 unless and until the debt to the non-federal account has been paid in full.

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 — 7/19/06
Rhonda J. Vosdingh
Associate General Counsel
for Enforcement
Date

FOR THE RESPONDENTS:

Meredith G. Kelly — 6/20/2006
Date

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