



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

APR 16 2007

FIRST CLASS MAIL

Neil P. Reiff, Esq.
Sandler, Reiff & Young, P.C.
50 E Street, SE
Washington, DC 20003

RE: MUR 5851
Democratic National Committee and
Andrew Tobias, in his official
capacity as Treasurer

Dear Mr. Reiff:

On March 29, 2007, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 434(g)(1)(A) and 434(g)(2)(A), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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,

A handwritten signature in black ink, appearing to be "Julie K. McConnell", written over a horizontal line.

Julie K. McConnell
Attorney

Enclosure
Conciliation Agreement

27044160383

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

DNC Services Corporation/Democratic National Committee
Andrew Tobias, in his official capacity as Treasurer

MUR 5851

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2007 MAR 14 P 4: 22

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 DNC Services Corporation/Democratic National Committee and Andrew Tobias, in his official capacity as Treasurer (collectively "Respondents" or "Committee"), violated 2 U.S.C. §§ 434(g)(2)(A) and 434(g)(1)(A) of the Federal Election Campaign Act of 1971, as amended (the "Act"), and 11 C.F.R. §§ 104.4(b)(2) and 104.4(c).

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 enter voluntarily into this agreement with the Commission.

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

1. The Act requires a person, including a political committee, "that makes or contracts to make independent expenditures aggregating \$10,000 or more at any time up to and including the 20th day before the date of an election [to] file a report describing the expenditures within 48 hours." 2 U.S.C. § 434(g)(2)(A); *see also* 11 C.F.R. § 104.4(b)(2).

27044160385

2. The Act also requires a person, including a political committee, “that makes or contracts to make independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the date of an election [to] file a report describing the expenditures within 24 hours.” 2 U.S.C. § 434(g)(1)(A); *see also* 11 C.F.R. § 104.4(c).

3. Respondents made nine independent expenditures, totaling \$165,190.98, between January 1, 2004 and the 20th day prior to the 2004 General Election held on November 2, 2004.

4. One of these independent expenditures, in the amount of \$58,220.89, was a pass-through payment to a mail vendor, Western Litho. Respondents disclosed this independent expenditure in a 48 Hour Notice filed on October 9, 2004 using the vendor’s name, and on Schedule E of the 2004 12 Day Pre-General Report as a payment to the U.S. Postmaster.

5. Respondents disclosed the remaining eight independent expenditures totaling \$106,970.09 in their 2004 September Monthly and 12 Day Pre-General Reports but did not file 48 Hour Notices.

6. Respondents made nine independent expenditures, totaling \$1,196,239.07, after the 20th day, but more than 24 hours, before the date of the 2004 General Election held on November 2, 2004.

7. Respondents disclosed the expenditures in their 2004 30 Day Post-General Report but did not file 24 Hour Notices.

8. Respondents contend that the eight independent expenditures totaling \$106,970.09 not disclosed in 48 Hour Notices and one independent expenditure in the amount of \$37,291.26 not disclosed in a 24 Hour Notice were payments to media vendors; that the preparation and submission of 48 and 24 Hour Notices was based on good faith estimates

provided by the media vendors; that, in some cases, the estimates were higher or lower than the actual costs provided by the vendors in final and supplemental invoices, and that, as a result, the use of good faith estimates resulted in limited under- and over-reporting of media payments on 48 and 24 Hour Notices.

9. Respondents further contend that the failure to file 24 Hour Notices for eight independent expenditures totaling \$1,158,947.81 was inadvertent and was caused by an apparent miscommunication between Committee staff and the law firm responsible for filing 24 Hour Notices on its behalf. Respondents assert that the omitted reports reflect less than one percent of over \$120,000,000 spent on independent expenditures by the Committee during the 2004 election cycle

IV. Respondents committed the following violations:

1. Respondents violated 2 U.S.C. § 434(g)(2)(A) and 11 C.F.R. § 104.4(b)(2) by failing to file five 48 Hour Notices relating to eight independent expenditures that aggregated \$10,000 or more.

2. Respondents violated 2 U.S.C. § 434(g)(1)(A) and 11 C.F.R. § 104.4(c) by failing to file four 24 Hour Notices relating to nine independent expenditures that aggregated \$1,000 or more.

V. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of eighty-two thousand (\$82,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents will cease and desist from violating 2 U.S.C. § 434(g)(2)(A) and 11 C.F.R. § 104.4(b)(2).

3. Respondents will cease and desist from violating 2 U.S.C. § 434(g)(1)(A) and 11 C.F.R. § 104.4(c).

VI. 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.

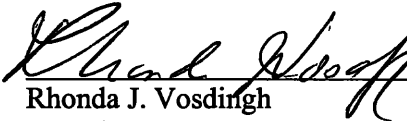
VII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

VIII. Except as otherwise provided, 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.

IX. 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:

Thomasenia P. Duncan
Acting General Counsel

BY: 
Rhonda J. Vosdigh
Associate General Counsel For Enforcement

4/13/07
Date

FOR THE RESPONDENTS:


~~Andrew Tobias~~ Joseph E. Sanders, Counsel
~~Treasurer~~, DNC Services Corporation/Democratic
National Committee

3/5/07
Date