FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via Facsimile & First Class Mail
Fax: (202) 728-4044

MAR 13 2012

12044312958

William Oldaker, Esq.
Oldaker Law Group, LLP
818 Connecticut Avenue, NW
Suite 1100
Washington, DC 20006

RE: MUR 6040
Representative Charles B. Rangel
Rangel for Congress and
Basil Paterson, as treasurer
National Leadership PAC and
Basil Paterson, as treasurer

Dear Mr. Oldaker:

On March 20, 2012, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 2 U.S.C. §§ 441a(f) and 434(b), provisions 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) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). 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,

Marianne Abely by PB

Marianne Abely
Attorney

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 6040
Rangel for Congress and Basil Paterson, in his official capacity as treasurer	)	
National Leadership PAC and Basil Paterson, in his official capacity as treasurer	)	
Representative Charles B. Rangel	)	

CONCILIATION AGREEMENT

This matter was initiated by an externally generated complaint. The Federal Election Commission ("Commission") found reason to believe that Rangel for Congress and Basil Paterson, in his official capacity as treasurer ("RFC"), the National Leadership PAC and Basil Paterson, in his official capacity as treasurer ("NLP") (collectively "the Committees"), and Representative Charles B. Rangel each violated 2 U.S.C. § 441a(f) by accepting excessive in-kind contributions from Fourth Lenox Terrace Associates a/k/a Lenox Terrace Development Assoc. ("Fourth Lenox"). The Commission also found reason to believe that the Committees violated 2 U.S.C. § 434(b) by failing to report the in-kind contributions.

NOW, THEREFORE, the Commission and Respondents, having participated in informal methods of conciliation prior to a finding of probable cause to believe, pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

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

Background

1. RFC is a political committee within the meaning of 2 U.S.C. § 431(4), and is the principal campaign committee of Representative Charles B. Rangel, who represents the 15th Congressional District in New York. NLP is a political committee within the meaning of 2 U.S.C. § 431(4), and is a "Leadership PAC" associated with Rep. Rangel. NLP is registered with the Commission as a non-connected PAC and multicandidate committee. 11 C.F.R. § 100.5(g)(5); *see* Leadership PACs, 68 Fed. Reg. 67,013 (Dec. 1, 2003).

2. Fourth Lenox, a general partnership, owns an apartment building at 40 West 135th Street in New York City ("building"). The building is part of a six-building apartment complex called Lenox Terrace, which is managed on behalf of Fourth Lenox by Hampton Management Company ("Hampton").

3. During the relevant time period, Rep. Rangel and his wife resided in the building in three rent-stabilized apartments located on the 16th floor. In 1996, he signed a two-year lease for a rent-stabilized one-bedroom apartment on the 10th floor of the same building ("Unit 10U" or "apartment 10U"). The Committees began occupying Unit 10U shortly after the lease was signed until October 2008. Rep. Rangel did not reside in Unit 10U and instead used the apartments on the 16th floor as his primary residence.

Applicable Law

4. The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no person shall make contributions to any candidate and his or her

authorized political committees with respect to any election for federal office which in the aggregate exceed $2,100 for the 2006 election cycle or $2,300 for the 2008 election cycle. 2 U.S.C. § 441a(a)(1)(A). Further, no person shall make contributions to any other political committee in any calendar year, which in the aggregate, exceeds $5,000. 2 U.S.C. § 441a(a)(1)(C). As a partnership, Fourth Lenox could have contributed up to $4,200 to RFC during the 2006 election cycle and $4,600 during the 2008 cycle (primary and general election combined), assuming that any contributions exceeding the primary election limits were properly designated for the general election. 2 U.S.C. § 441a(a)(1)(A); 11 C.F.R. § 110.1(b).

5. Candidates and political committees may not accept contributions which exceed the statutory limitations of section 441a. 2 U.S.C. § 441a(f). All political committees are required to file reports of their receipts and disbursements. 2 U.S.C. § 434(a). These reports must itemize all contributions received from individuals that aggregate in excess of $200 per election cycle. 2 U.S.C. § 434(b); 11 C.F.R. § 104.3(a)(4). Any in-kind contribution must also be reported as an expenditure on the same report. 11 C.F.R. §§ 104.3(b) and 104.13(a)(2).

6. A "contribution" includes "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office." 2 U.S.C. § 431(8)(A)(i). The Commission's regulations provide that "anything of value" includes all in-kind contributions, including the provision of goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services. 11 C.F.R. § 100.52(d)(1). The regulations specifically include facilities as an example of such goods or services. *Id.* The amount of

the in-kind contribution is the difference between the usual and normal charge for the goods or services at the time of the contribution and the amount charged to the political committee. *Id.* The usual and normal charge for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution. 11 C.F.R. § 100.52(d)(2).

Facts

7. Prior to approximately 2004, most of the apartments at Lenox Terrace were rent-stabilized, meaning that they were subject to New York's Rent Stabilization Code, 9 NYCRR Parts 2520-2530 ("Code"), which limited annual rent increases (set by a rent guidelines board) and entitled tenants to have their leases renewed. However, a tenant had to use the stabilized apartment as his or her primary residence in order for it to remain under rent stabilization; in addition, the apartment could be deregulated once the monthly rent reached $2,000 and it was subsequently vacated. The Code sets forth various factors that may be considered in determining whether a tenant remains a primary resident, including whether the tenant occupies the unit for an aggregate of less than 183 days in the most recent calendar year.

8. Starting in approximately 2003, Hampton, on behalf of Fourth Lenox, the landlord, instituted a non-primary residency program ("program") of actively investigating whether tenants of record in rent-stabilized apartments were residing in their units pursuant to the residency criteria set forth in the Code. The main objective of the program was to maximize profits for the landlord by recapturing apartments and possibly increasing the legal rent to $2,000 (through a combination of rent increases

allowed by the Code) so that the apartments could become deregulated and rented at the market rate.

9. If information showed that the tenant of record had not been using the apartment as his or her primary residence for the most of the prior year or longer, the tenant generally was served with a notice of Fourth Lenox's intent not to renew the lease. The notice – commonly called a "Golub" notice – was required to be sent between 90 and 150 days prior to the expiration of the lease. The Golub notice contained facts supporting non-residency and notified the tenant that Fourth Lenox did not intend to renew the lease at the end of the current term. Fourth Lenox began serving Golub notices on non-primary tenants around the first half of 2003, well before the 2004 Golub period for Unit 10U, which ran from May 31 through July 31, 2004.

10. After receiving a Golub notice, if the tenant did not relinquish the apartment upon the expiration of the lease, Fourth Lenox generally started eviction proceedings by sending a notice to the tenant and filing an eviction action in New York Civil Court. Well before the date that rent-stabilized leases were up for renewal, Hampton provided a list of those tenants to an investigative agency, which then generated a written report with relevant information about each tenant, such as whether public records indicated multiple active addresses. Hampton would also direct inquiries to on-site staff, compare signatures by the purported tenant on various documents, and sometimes hire a private investigator to conduct a more thorough review.

11. Because Rep. Rangel did not use Unit 10U as his primary residence, the failure to take steps to evict Rep. Rangel was inconsistent with Fourth Lenox's lease renewal procedures.

12. Fourth Lenox allowed the Committees to use a rent-stabilized apartment for which the Committees paid less than they would have for non-rent-stabilized office space; the difference constitutes an in-kind contribution under the Act, *see* 2 U.S.C. § 431(8)(A)(i), since the apartment was provided "at a charge that is less than the usual and normal charge for such goods or services [which include 'facilities']." 11 C.F.R. § 100.52(d)(1).

13. The difference between half the market value of the shared space, and the actual rent share paid for Unit 10U over the course of the 2004-2006 leasing period exceeded Fourth Lenox's $4,200 limit to RFC during the 2006 cycle. The difference over the course of the 2006-2008 leasing period exceeded Fourth Lenox's $4,600 limit to RFC during the 2008 election cycle.

14. The difference between half the market value of the shared space and the actual rent paid by NLP for Unit 10U in 2005, 2006, 2007 and 2008 exceeded Fourth Lenox's annual contribution limit to NLP in each of those years.

15. Commencing with Rep. Rangel's renewal of the lease for Unit 10U in November 2004, the Committees and Rep. Rangel accepted the benefit of reduced rent by making full use of the apartment for political activities. *See, e.g., FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D.N.J. 1986) (a "knowing" standard does not require knowledge that one is violating a law, but merely requires an intent to act; treasurer "knowingly accepted" excessive contribution even if unaware of donor committee's non-multicandidate status).

16. The Committees' Executive Director worked at the office full time and knew it was rent-stabilized. After he received the lease renewal forms (which also

indicated that the apartment was stabilized), he would have them signed by Rep. Rangel. In addition, Rep. Rangel signed the renewal leases in 2004 and 2006 on behalf of the Committees with full knowledge that Unit 10U was a rent stabilized apartment; he also signed the original 1996 lease and all other renewal forms. The lease required Rep. Rangel to use Unit 10U "for living purposes only" and barred him from subletting the apartment without the landlord's "advance written consent," which he never obtained; further, the renewal leases he signed stated that they were subject to the prior terms and conditions.

V. Respondents violated the Act in the following ways:

1. Respondent Rangel for Congress and Basil Paterson, in his official capacity as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive in-kind contributions from Fourth Lenox.

2. Respondent Rangel for Congress and Basil Paterson, in his official capacity as treasurer, violated 2 U.S.C. § 434(b) by failing to report in-kind contributions from Fourth Lenox.

3. Respondent National Leadership PAC and Basil Paterson, in his official capacity as treasurer, violated 2 U.S.C. § 441a(f) by accepting excessive in-kind contributions from Fourth Lenox.

4. Respondent National Leadership PAC and Basil Paterson, in his official capacity as treasurer, violated 2 U.S.C. § 434(b) by failing to report in-kind contributions from Fourth Lenox.

5. Respondent Representative Charles B. Rangel violated 2 U.S.C. § 441a(f) by accepting excessive in-kind contributions from Fourth Lenox.

VI. Respondents will cease and desist from violating 2 U.S.C. §§ 441a(f) and 434(b).

VII. Respondents will pay a civil penalty of Twenty-Three Thousand Dollars ($23,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. 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.

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. Respondents shall have no more than thirty (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.

XI. 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:

Anthony Herman
General Counsel

BY: _____ 3/23/12
~~Kathleen M. Guith~~ DANIEL A. PETALAS Date
~~Acting~~ Associate General Counsel
for Enforcement

FOR THE RESPONDENTS:

_____ 3/5/12
Position: William C. Oldaker Date
Counsel for Charles B. Rangel