



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 10 2012

Joe Green

Independence, Kentucky 41501

RE: MUR 6539
Joe Green

Dear Mr. Green:

On May 8, 2012, the Federal Election Commission accepted the signed conciliation agreement submitted by you in settlement of violations of 2 U.S.C. § 432(c), 2 U.S.C. § 434(b) and 2 U.S.C. § 439a(b), 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) 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,

Delbert K. Rigsby
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Joe Green)

) MUR 6539
)

FEDERAL ELECTION COMMISSION
2012 APR 24 AM 10:39
OFFICE OF THE CLERK

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 that Joe Green ("Respondent"), knowingly and willfully violated 2 U.S.C. §§ 432(c), 434(b), and 439a(b), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

NOW, THEREFORE, the Commission and 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. Geoff Davis for Congress ("Committee") is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Joe Green served as treasurer of the Committee from January 2003 to July 2010.

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3. The Act prohibits any person from converting contributions to a Federal candidate for personal use. 2 U.S.C. § 439a(b)(1). "Personal use" means any use of funds in a campaign account of a federal candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign duties. 11 C.F.R. § 113.1(g). The term "person" includes individuals and committees. 2 U.S.C. § 431(11).

4. The phrase "knowing and willful" indicates that "actions [were] taken with full knowledge of all of the facts and a recognition that the action is prohibited by law." 122 Cong. Rec. H 2778 (daily ed. May 3, 1976); *see also Dranesi for Cong. Comm.*, 640 F. Supp. at 987 (distinguishing between "knowing" and "knowing and willful"). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge" that an action was unlawful. *United States v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful act may be drawn "from the defendant's elaborate scheme for disguising" his or her actions. *Id.* at 214-15.

5. Under the Act, a treasurer is required to accurately keep an account of and report receipts and disbursements. *See* 2 U.S.C. §§ 432(c)(5), 434(b)(2), (3), (4) and (6). Committee treasurers and any other person required to file any report or statement under the Act and the commission's regulations are also personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it. 11 C.F.R. § 104.14(d).

6. Using Committee checks, Joe Green made five unauthorized payments to himself in 2009 and 2010 from Committee funds totaling \$7,343.03 for his personal use, and failed to report the payments on the Committee's disclosure reports. The first unauthorized payment was for \$500, as evidenced by a payment to Green for \$2,000, reported on the Committee's 2009 July

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Quarterly Report disclosure report as a disbursement for \$1,500 on April 1, 2009. The remaining four unauthorized payments were by checks made out to Green on September 30, 2009 for \$659, February 24, 2010 for \$284.03, April 15, 2010 for \$4,800 and June 17, 2010 for \$1,100.

7. Green failed to report the unauthorized payments to himself on the Committee's disclosure reports.

8. Green has refunded \$5,900 of his unauthorized payments to the Committee.

V. 1. Respondent knowingly and willfully violated 2 U.S.C. § 439a(b) by converting Committee funds for his own personal use.

2. Respondent knowingly and willfully violated 2 U.S.C. §§ 432(c) and 434(b) by failing to maintain proper records of disbursements and to file accurate reports of disbursements in the Committee's disclosure reports.

VI. Respondent will take the following actions:

1. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Eight Thousand Eight Hundred Dollars (\$8,800), pursuant to 2 U.S.C. § 437g(a)(5)(B).

2. Respondent will cease and desist from violating 2 U.S.C. §§ 432(c), 434(b), and 439a(b).

3. Respondent will refund One Thousand Four Hundred Forty Three Dollars and Three Cents (\$1,443.03) to the Committee for the remaining amount of unauthorized payments that have not been refunded.

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

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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.

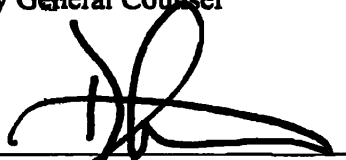
IX. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

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:

Christopher Hughey
Deputy General Counsel

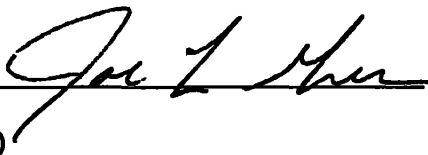
BY:


Daniel A. Petalas
Associate General Counsel
for Enforcement

5/7/12
Date

FOR THE RESPONDENT:

(Name)
(Position)



4/18/2012
Date

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