



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Via U.S. and Electronic Mail

Trevor M. Stanley, Esq.
Baker & Hostetler LLP
1050 Connecticut Ave., N.W., Suite 1100
Washington, DC 20036

JUN 20 2019

RE: MUR 7073
Alexander Meluskey, *et al.*

Dear Mr. Stanley:

On June 12, 2019, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your clients' behalf in settlement of the violations of 52 U.S.C. §§ 30102(e)(1), 30104(b), and 30120(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 Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondents and the Commission. See 52 U.S.C. § 30109(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 Jonathan Peterson, the attorney assigned to this matter, at (202) 694-1525.

Sincerely,

A handwritten signature in black ink, appearing to read "Lynn Y. Tran".

Lynn Y. Tran
Assistant General Counsel

Enclosure
Conciliation Agreement

10052541-110001

BEFORE THE FEDERAL ELECTION COMMISSION

2019 MAY 24 AM 11: 53

MUR 7073

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3 In the Matter of)
4)
5 Alexander Meluskey)
6 Meluskey for U.S. Senate, Inc. and Julianne Ryan)
7 in her official capacity as treasurer)
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11 **CONCILIATION AGREEMENT**

12 This matter was initiated by a signed, sworn, and notarized complaint filed by Karen
13 Schutte. The Federal Election Commission ("Commission") found reason to believe that
14 Alexander Meluskey violated 52 U.S.C. § 30102(e)(1) and that Meluskey for U.S. Senate, Inc.
15 and Julianne Ryan in her official capacity as treasurer (the "Committee") (collectively
16 "Respondents") violated 52 U.S.C. §§ 30104(b) and 30120(a).

17 NOW, THEREFORE, the Commission and the Respondents, having participated in
18 informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree
19 as follows:

20 I. The Commission has jurisdiction over the Respondents and the subject matter of
21 this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C.
22 § 30109(a)(4)(A)(i).

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

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

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

27 1. Alexander Meluskey became a candidate for U.S. Senate in the 2016 Arizona
28 Republican Primary Election on February 10, 2015, when he made expenditures in excess of
\$5,000. He suspended his campaign on July 31, 2016.

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1 2. Meluskey filed his Statement of Candidacy with the Commission on May 27,
2 2015. He designated Meluskey for U.S. Senate, Inc. as his principal campaign committee.
3 Julianne Ryan is the treasurer of Meluskey for U.S. Senate, Inc.

4 3. Before and during his candidacy, Meluskey purchased one hour of air time
5 each week to broadcast his self-hosted radio show on three radio stations in Arizona. The show
6 was first known as "Fair Tax for All Radio" and was already airing on KKNT in Phoenix,
7 Arizona when Meluskey became a candidate in February 2015. On June 6, 2015, a second radio
8 station, KFNX, began broadcasting the show also in the Phoenix area, and the show was
9 renamed, "The Alex Meluskey Show." In May 2016, a third radio station, KQNA, began
10 running the show in Prescott Valley, Arizona.

11 4. From June 2015 through July 2016, 128 broadcasts of "The Alex Meluskey
12 Show" ran on the three radio stations. In these broadcasts, Meluskey discussed his campaign,
13 criticized his primary opponent, Senator McCain, discussed his positions on policy issues, and
14 expressly advocated his election and the defeat of his opponent as well as solicited contributions
15 to his campaign without including any disclaimers.

16 5. Meluskey's single member LLC, Virtuous Communications, LLC, made
17 payments totaling \$16,235.29 to broadcast the radio show from June 2015 through July 2016.

18 6. Under the Federal Election Campaign Act of 1971, as amended (the "Act") an
19 individual becomes a candidate when: (a) such individual receives contributions or makes
20 expenditures in excess of \$5,000; or (b) such individual gives his or her consent to another
21 person to receive contributions or make expenditures on behalf of such individual, and if such
22 person has received contributions or has made expenditures in excess of \$5,000. 52 U.S.C.

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1 § 30101(2); 11 C.F.R. § 100.3(a)(1)-(2). Once the \$5,000 threshold has been met, the candidate
2 has fifteen days to designate a principal campaign committee by filing a Statement of Candidacy
3 with the Commission. 52 U.S.C. § 30102(e)(1); 11 C.F.R. § 101.1(a). The principal campaign
4 committee must file a Statement of Organization within ten days of its designation. 52 U.S.C.
5 § 30103(a); 11 C.F.R. § 102.1(a).

6 7. The Act and Commission regulations define “contribution” and “expenditure”
7 to include the gift of “anything of value” for the purpose of influencing a federal election. 52
8 U.S.C. § 30101(8)(A)(i), (9)(A)(i). “Anything of value” in both contexts includes all in-kind
9 contributions. 11 C.F.R. §§ 100.52(d)(1), 100.111(e)(1). All contributions to and expenditures
10 by a principal campaign committee must be reported in accordance with 52 U.S.C. § 30104(a)
11 and (b).

12 8. For the purpose of contribution source limitations, contributions from single
13 member LLCs that do not elect to be treated as a corporation “shall be attributed only to that
14 single member and subject to the contribution limits of that sole member.” 11 C.F.R.
15 § 110.1(g)(4). Commission regulations permit a candidate to use his or her personal funds to
16 make unlimited contributions to his campaign. *See* 11 C.F.R. 110.10.

17 9. In addition, whenever a person airs a public communication that solicits
18 contributions or expressly advocates the election or defeat of a clearly identified candidate, that
19 person must include a disclaimer in the communication, with specific language set out in the
20 regulations. 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)(2)-(3), (b), (c). The term “public
21 communication” includes communications “by means of any broadcast.” 52 U.S.C.
22 § 30101(22).

1 10. Meluskey became a candidate on February 10, 2015, but he did not file a
2 Statement of Candidacy until May 27, 2015.

3 11. Once Meluskey became a candidate, he used his radio show to influence the
4 outcome of his campaign for U.S. Senate by, among other things, soliciting contributions and
5 expressly advocating his election and the defeat of his opponent.

6 12. Meluskey's single member LLC, Virtuous Communications, paid \$16,235.29
7 to broadcast the show on the three stations from June 2015 through July 2016, but Meluskey's
8 Committee failed to disclose any of these payments as in-kind contributions on any of its reports
9 filed with the Commission covering the period of Meluskey's candidacy.

10 13. At least 80 broadcasts of the "The Alex Meluskey Show" that aired during
11 Meluskey's candidacy contained solicitations or express advocacy without the required
12 disclaimers.

13 V. Respondents committed the following violations:

14 1. Meluskey violated 52 U.S.C. § 30102(e)(1) by failing to file a Statement of
15 Candidacy within 15 days after becoming a candidate.

16 2. The Committee violated 52 U.S.C. § 30104(b) by failing to disclose
17 \$16,235.29 in contributions and expenditures in its reports disclosing receipts and contributions
18 from June 2015 through July 2016, which funds were used to fund a weekly radio talk show
19 hosted by Meluskey.

20 3. The Committee violated 52 U.S.C. § 30120(a) by failing to include required
21 disclaimers on radio broadcasts that solicited contributions and contained express advocacy.

22 VI. 1. Respondents will pay a civil penalty to the Federal Election Commission in the
23 amount of Four Thousand Dollars (\$4,000), pursuant to 52 U.S.C. § 30109(a)(5)(A).

1 2. Respondents will cease and desist from violating 52 U.S.C. §§ 30102(e)(1) and
2 30104(b).

3 VII. The Commission, on request of anyone filing a complaint under 52 U.S.C.
4 § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review
5 compliance with this agreement. If the Commission believes that this agreement or any
6 requirement thereof has been violated, it may institute a civil action for relief in the United States
7 District Court for the District of Columbia.

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

10 IX. Respondents shall have no more than 30 days from the date this agreement
11 becomes effective to comply with and implement the requirements contained in this agreement
12 and to so notify the Commission.


13 X. This Conciliation Agreement constitutes the entire agreement between the parties
14 on the matters raised herein, and no other statement, promise, or agreement, either written or
15 oral, made by either party or by agents of either party, that is not contained in this written
16 agreement shall be enforceable.

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1 FOR THE COMMISSION:

2 Lisa J. Stevenson
3 Acting General Counsel
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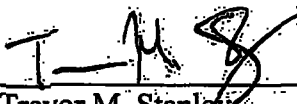
5 BY:


6 _____
7 Charles Kitcher
8 Acting Associate General Counsel
9 for Enforcement

6/20/19

Date

10 FOR THE RESPONDENTS:

11 
12 _____
13 Trevor M. Stanley
Counsel

5/23/19

Date

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