



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 19, 2023

Via Electronic Mail

Paul Brothers
Graves Garrett LLC
110 Main Street, Suite 2700
Kansas City, Missouri 64105
pbrothers@gravesgarrett.com

RE: MUR 7629 (merged with former
Pre-MUR 619)
Spano for Congress and Robert Phillips
III in his official capacity as treasurer

Dear Mr. Brothers:

On April 13, 2023, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of Vincent Ross Spano and your client, Ross Spano for Congress and Robert Phillips III in his official capacity as treasurer in settlement of violations of 52 U.S.C. §§ 30116(f), 30104(b)(3) and 11 C.F.R. § 103.3(b)(3), provisions of the Federal Election Campaign Act of 1971, as amended and Commission regulations. The Commission also voted to close the file.

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 respondent 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 Mr. Spano is to pay 50% of the civil penalty within 30 days of the effective date of the conciliation agreement and the remaining 50% within 120 days of the effective date of the executed conciliation agreement. The Committee also has an obligation to amend its reports as set forth in the conciliation agreement. If you have any questions, please contact me at (202) 746-8546.

Sincerely,

Kimberly D. Hart

Kimberly D. Hart
Attorney

Enclosure: Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	
Vincent Ross Spano)	
Spano for Congress and)	MUR 7629
Robert Phillips III in his official)	
capacity as treasurer)	

CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission (“the Submission”) made to the Federal Election Commission (the “Commission”) by Vincent Ross Spano (“Spano”), Spano for Congress and Robert Phillips III in his official capacity as treasurer (the “Committee”), and by a separate complaint later filed with the Commission. *See* 52 U.S.C. § 30109(a)(1).

The Commission found reason to believe that (1) Ross Spano and the Committee accepted excessive contributions from Cary Carreno and Karen L. Hunt in violation of 52 U.S.C. § 30116(f); (2) the Committee misreported the source of the funds in violation of section 52 U.S.C. § 30104(b)(3); and (3) the Committee failed to timely refund or disgorge the excessive contributions in violation of 11 C.F.R. § 103.3(b), provisions of the Federal Election Campaign Act (the “Act”) and Commission regulations.

NOW, THEREFORE, the Commission and 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 52 U.S.C. § 30109(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 and law in this matter are as follows:

1. Spano, a licensed attorney and a former member of the Florida House of Representatives, announced his 2018 Congressional candidacy in April 2018. The Committee was Spano's principal campaign committee.

2. Carreno is a personal friend of Spano who contributed \$2,700 to Spano's 2018 primary election campaign and \$1,700 to his 2018 general election campaign.

3. Hunt is a personal friend of Spano who contributed \$1,000 to Spano's 2018 primary election campaign and \$1,000 to his 2018 general election campaign.

4. Between June and October of 2018, Carreno and Hunt made \$180,000 in personal loans to Spano for the purpose of supporting Spano's congressional candidacy.

<u>Date</u>	<u>Lender</u>	<u>Recipient</u>	<u>Amount</u>
6/28/2018	Cary Carreno	Ross Spano	\$35,000
8/9/2018	Karen Hunt	Ross Spano	\$35,000
9/30/2018	Karen Hunt	Ross Spano	\$35,000
10/29/2018	Cary Carreno	Ross Spano	\$75,000
		TOTAL	\$180,000

5. Spano prepared written promissory notes for each loan from Carreno and Hunt near or at the time of the loans. The promissory notes, which give no indication that the loans

were secured by any collateral, included a 5% interest rate and repayment schedule to begin in January 1, 2019, and continue until full repayment had been made by Spano.

6. Spano immediately used the Carreno and Hunt funds to make corresponding candidate loans, totaling \$164,500, that were represented on disclosure reports as being made from Spano's personal funds.

<u>Date</u>	<u>Election Cycle</u>	<u>Report</u>	<u>Source</u>	<u>Loan Amount</u>
6/30/2018	2018 Primary	July 2018 Quarterly	Personal funds	\$35,000
8/9/2018	2018 Primary	2018 Pre-Primary	Personal funds	\$32,000
9/30/2018	2018 General	October 2018 Quarterly	Personal funds	\$27,500
10/31/2018	2018 General	Post-General	Personal funds	\$70,000
			TOTAL	\$164,500

7. On three instances, Spano used a portion (\$15,500) of the \$180,000 loan proceeds to pay business and other personal expenses: \$3,000 of the \$35,000 loan amount (August 9th); \$7,500 of the \$35,000 loan amount (September 30th), and \$5,000 of the \$75,000 loan amount (October 29th).

8. Spano did not timely file his 2018 Federal Disclosure Statement ("FDS") with the Clerk of the U.S. House of Representatives. The FDS was initially due on May 15, 2018, but later extended to July 15, 2018. Following a media inquiry asking about his failure to file this report, Spano filed the FDS on November 3, 2019, three days before the 2018 general election. After Spano filed the FDS disclosing the Hunt loans and one of the Carreno loans, media reports questioned the legality of the arrangement.

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9. On December 3, 2018, Respondents filed a *sua sponte* submission with the Commission self-reporting their violations of the Act and Commission regulations and sought “the advice and recommendations from it to fully address this matter and adopt additional corrective measure.”

10. On December 24, 2018, Spano repaid Carreno’s loans with 5% interest totaling \$106,432.56 and the remaining amount of \$5,040.41 on December 28, 2018. On December 24, 2018, Spano repaid Hunt’s loans in full including 5% interest totaling \$71,063.38. Spano secured a personal bank loan to obtain the funds used to repay the Carreno and Hunt loans.

11. By supplemental *sua sponte* letter on December 31, 2018, Respondents notified the Commission that the Carreno and Hunt loans had been repaid in full.

12. On September 30, 2019, the Committee refunded the \$110,000 of the \$164,500 in candidate loans made by Spano with Carreno and Hunt funds. The Committee has not refunded the remaining \$54,500 in candidate loans.

13. Under the Act, a contribution is 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. *See* 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a). Further, a candidate committee must report the identity of any person who makes a contribution to the committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of \$200 within the election cycle. 52 U.S.C. § 30104(b)(3). Any candidate who receives a contribution as defined at 11 C.F.R. part 100, subparts B and C, obtains any loan, or makes any disbursement, in connection with his or her campaign shall be considered as having received such contribution, obtained such loan or made such disbursement as an agent of his or her authorized committee. 52 U.S.C. § 30102(e)(2); 11 C.F.R. §§ 101.2, 102.8(a).

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14. An individual may not make a contribution to a candidate with respect to any election in excess of the legal limit, which was \$2,700 per election during the 2017-2018 election cycle. 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1). The Act and Commission regulations further provide that no person may make, and no candidate or candidate's authorized political committee shall knowingly accept, any contribution that violates the contribution limits set forth in section 30116. 52 U.S.C. § 30116(f). In instances where a committee has received an excessive contribution, it has sixty (60) days to identify and redesignate, reattribute or refund the excessive amount. 11 C.F.R. § 103.3(b)(3).

15. The Act and Commission regulations allow that "candidates for federal office may make unlimited expenditures from personal funds," which include contributions to their principal campaign committees. 11 C.F.R. §§ 110.10, 100.33. "Personal funds" include (1) all assets in which a candidate has legal title or an equitable interest, as well as salary and other earned income from *bona fide* employment; (2) dividends and proceeds from the sale of the candidate's stocks or other investments; (3) bequests to the candidate; (4) income from trusts established before candidacy; (5) income from trusts established by bequest after candidacy of which the candidate is the beneficiary; (6) gifts of a personal nature which had been customarily received prior to candidacy; and (7) proceeds from lotteries and similar legal games of chance. 52 U.S.C. § 30101(26); 11 C.F.R. § 100.33.

16. A "loan" includes a guarantee, endorsement, and any other form of security. 11 C.F.R. § 100.52(b); *see also* 52 U.S.C. § 30101(8)(B)(vii). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. 11 C.F.R. §§ 100.52(b)(3), 100.82(c). A loan that exceeds the contribution limits, or otherwise violates 52 U.S.C. §§ 30116 or 30118, is unlawful,

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whether or not it is repaid. *Id.* A loan to a political committee or a candidate by a commercial bank is exempt from the definition of contribution, if such loan is made in accordance with applicable law and in the ordinary course of business. *Id.* § 100.82(a).

17. A loan will be deemed to be made in the ordinary course of business if it: “(1) [b]ears the usual and customary interest rate of the lending institution for the category of loan involved; (2) [i]s made on a basis that assures repayment; (3) [i]s evidenced by a written instrument; and (4) [i]s subject to a due date or amortization schedule.” A loan is considered “made on a basis that assures repayment” if it is obtained using a perfected security interest in collateral owned by the candidate, the fair market value of the collateral is equal to or greater than the loan amount, and the candidate provides documentation to show that the lending institution has a perfected security interest in the collateral. *Id.* Sources of collateral include goods, accounts receivable, and cash on deposit. 52 U.S.C. § 30101(8)(B)(vii); 11 C.F.R. § 100.52(b).

18. The Commission's regulations further provide that a third party's payment of a candidate's personal expense shall be deemed a contribution “unless the payment would have been made irrespective of the candidacy.” 11 C.F.R. § 113.1(g)(6); *see also* Explanation and Justification, Third Party Payments of Personal Use Expenses, 60 Fed. Reg. 7862, 7871 (Feb. 9, 1995) (“If a third party pays for the candidate's personal expenses, but would not ordinarily have done so if that candidate were not running for office, the third party is effectively making the payment for the purpose of assisting that candidacy.”).

19. Spano contends that he relied on his campaign consultant to calendar and file the FDS, that he did not intentionally file the FDS late, and that his campaign consultant acknowledged the mistake and paid the FDS late filing fee. In addition, Spano contends he did

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not include the second Carreno loan on the FDS because it did not fall within the applicable reporting period. Spano also contends that his repayment of the Carreno and Hunt loans in December 2018, prior to taking office in January 2019, was a good faith effort to immediately disgorge the loan proceeds. Finally, Respondents contend that Spano and the Committee did not knowingly and intentionally violate 52 U.S.C. §§ 30116(f) and 30104(b)(3) or 11 C.F.R. § 103.3(b)(3).

V. Respondents violated 52 U.S.C. §§ 30116(f) and 30104(b)(3); and 11 C.F.R. § 103.3(b)(3) by accepting excessive contributions; misreporting the candidate loans, and failing to timely refund or disgorge the excessive contributions.

VI. Respondents will take the following actions:

1. Respondents will cease and desist from violations of 52 U.S.C. §§ 30116(f), 30104(b)(3); and 11 C.F.R. § 103.3(b)(3).
2. The Committee will amend its disclosure reports to accurately report the receipt of the contributions and the true source of the funds used to make the candidate loans.
3. Respondent Vincent Ross Spano will pay a civil penalty of Thirty Thousand Dollars (\$30,000), pursuant to 52 U.S.C. § 30109(a)(5)(A). The civil penalty will be paid as follows:
 - i. A payment of Fifteen Thousand Dollars (\$15,000) is due within no more than thirty (30) days of the effective date of this Agreement; and
 - ii. A payment of Fifteen Thousand Dollars (\$15,000) is due within no more than one hundred twenty (120) days of the effective date of this Agreement.

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review

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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. 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.

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 within this written agreement shall be enforceable.

FOR THE COMMISSION:

Lisa J. Stevenson
 Acting General Counsel

BY: **Charles Kitcher**
 Charles Kitcher
 Associate General Counsel
 for Enforcement

Digitally signed by
 Charles Kitcher
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4/19/23

Date

FOR THE RESPONDENTS:


 Vincent Ross Spano
 Respondent

03/23/2023
 Date

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Robert Phillips III
Treasurer

03232023

Date