

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Rebecca Colker

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MUR 5041

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 Rebecca Colker ("Respondent") violated 2 U.S.C. §§ 441b(a) and 441f.

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 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. Wuesthoff is a nonprofit 295-bed acute care hospital incorporated in the State of Florida.

22 "04" 405 "3941

MJR 5041

Conciliation Agreement - Rebecca Colker

Page 2

2. At all relevant times, Robert Carman was President and Chief Executive Officer of Wuesthoff.

3. From January 20, 1996 through May 19, 1999, Rebecca Colker was Chief Financial Officer of Wuesthoff.

4. Rebecca Colker was reimbursed with Respondent Wuesthoff's corporate funds for a total of \$1,000 in contributions that she made on or about June 24, 1998.

5. The corporate contributions to the federal committees were made in Ms. Colker's name.

6. The available information demonstrates that Ms. Colker, a senior officer of the corporation, participated in Wuesthoff's violation of the Act by accepting funds from the corporation to make the federal contributions and allowing her name to be used for that purpose.

7. The available information further demonstrates that as Chief Financial Officer at Wuesthoff, Ms. Colker's name appeared as the authorization signature on several reimbursement checks to employees for their contributions. While Ms. Colker was aware that Wuesthoff funds were used to reimburse employees for their political contributions, any reimbursement checks with Ms. Colker's signature were signed via the mechanism of a signature plate and were not individually reviewed, approved and signed by Ms. Colker. Many reimbursements were made to employees with their salary payments using direct payroll deposit, which was handled directly by Robert Carman's secretary. While Ms. Colker was aware at the time that Wuesthoff could not make direct campaign contributions, she contends

2001-04-10 12:24

MUR 5041

Conciliation Agreement - Rebecca Colker

Page 3

she did not know that the reimbursement procedure devised by Robert Carman violated a specific federal election law.

8. The contributions Ms. Colker made were at the order and direction of Robert Carman, President of Wuesthoff. When Ms. Colker became aware in October of 1998 that the contributions may violate federal law, she brought the matter to the attention of Carman and Wuesthoff's in-house counsel.

9. The Act prohibits corporations from making contributions or expenditures in connection with a federal election. 2 U.S.C. § 441b(a). Section 441b(a) of the Act also prohibits any officer or any director of any corporation from consenting to any contribution or expenditure by the corporation.

10. Further, Section 441f of the Act prohibits any person from making a contribution in the name of another person or from permitting his or her name to be used to effect such a contribution. The Commission regulations at 11 C.F.R. § 110.4(b)(1)(iii) also make it unlawful for any person to knowingly help or assist any person making a contribution in the name of another.

V. 1. Respondent Rebecca Colker violated 2 U.S.C. § 441b(a) by her participation in the making of Wuesthoff's corporate contributions.

2. Respondent Rebecca Colker violated 2 U.S.C. § 441f by allowing her name to be used in Wuesthoff's making of the corporate contributions.

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Two Thousand dollars (\$2,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

22-04-405-3943

MUR 5041**Conciliation Agreement - Rebecca Colker****Page 4**

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 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 30 days from the date this agreement becomes effective to comply with and implement the requirement contained in this agreement and to so notify the Commission.

X. Respondent understands that the recipient campaign committees will be requested to disgorge the above-referenced reimbursed contributions to the United States Treasury. Respondent waives any and all claims she may have to the refund or reimbursement of such contributions.

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MUR 5041

Conciliation Agreement - Rebecca Colker

Page 5

22 "04" 405 "3945

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:

Lois G. Lemer
Acting General Counsel

BY: Abigail A. Shaine
Abigail A. Shaine
Acting Associate General Counsel

2/21/01
Date

FOR RESPONDENT:

Rebecca M. Colker

January 23, 2001
Date

Date