

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

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3
4 In the Matter of)
5) MUR 5166
6 Missouri Republican State Committee-)
7 Federal Committee and Harvey M. Tettlebaum,)
8 as treasurer)
9

10 **CONCILIATION AGREEMENT**

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12 This matter was initiated by the Federal Election Commission ("Commission"), pursuant
13 to information ascertained in the normal course of carrying out its supervisory responsibilities.

14 The Commission found reason to believe the Missouri Republican State Committee— Federal
15 Committee ("Committee") and Harvey M. Tettlebaum, as treasurer (collectively, "Respondents"),
16 violated 2 U.S.C. §§ 432(c)(1) and (c)(2), 434(b)(2)(A) and (b)(3)(G).

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 this
21 proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.
22 § 437g(a)(4)(A)(i).

23 II. Respondents have had a reasonable opportunity to demonstrate that no action should
24 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:

1 1. Missouri Republican State Committee-Federal Committee is a political
2 committee within the meaning of 2 U.S.C. § 431(4), and is not an authorized committee of any
3 candidate.

4 2. Harvey M. Tettlebaum is the treasurer of the Missouri Republican State
5 Committee Federal Committee.

6 3. The Federal Election Campaign Act of 1971, as amended ("the Act"),
7 requires treasurers of political committees to keep an account of "all contributions received by or
8 on behalf of such political committee [and] the name and address of any person who makes any
9 contribution in excess of \$50, together with the date and amount of such contribution by any
10 person." 2 U.S.C. §§ 432(c)(1) and (c)(2).

11 4. The Act also requires treasurers of political committees to file reports of
12 receipts and disbursements in accordance with 2 U.S.C. § 434(a). Each report shall disclose for
13 the reporting period and calendar year "the total amount of receipts," including "contributions
14 from persons other than political committees." 2 U.S.C. § 434(b)(2)(A). Additionally, each
15 report shall disclose "the identification of each . . . person who provides any dividend, interest, or
16 other receipt to the reporting committee in an aggregate value or amount in excess of \$200 within
17 the calendar year together with the date and amount of any such receipt." 2 U.S.C.
18 § 434(b)(3)(G).

19 5. In early 1999, Respondents discovered accounting and reporting errors as a
20 result of a preliminary inquiry. Thereafter, the Respondents conducted a special review covering
21 the period of January 1, 1997 through December 31, 1998, which included matching copies of
22 available contribution checks against available reports that the Respondents had filed with the
23 Commission during that time period and comparing cash-on-hand balances to amounts shown in

1 bank statements. All checks that had not been entered in the reporting software were entered.

2 During the special review, the Respondents located \$35,697 in contributions they believed had
3 been deposited but not reported, and, on August 2, 1999 filed a number of amended 1997 and
4 1998 Commission disclosure reports to include these contributions, including an amended 1998
5 April Quarterly Report which disclosed an additional \$75,301.41 in receipts. The Respondents
6 attributed the additional receipts to \$521.41 in previously unreported interest expense and
7 \$74,780 of previously unreported unitemized contributions found during the review. The same
8 day, the Respondents also filed their 1999 Mid-Year Report which showed beginning cash-on-
9 hand of \$127,074.88 and an amended 1998 Year End Report which showed an ending cash
10 balance of \$58,253.81, a total unreconciled cash discrepancy of \$68, 821.07. The Respondents
11 attributed the discrepancy to contributions it had been unable to identify, but which it believed
12 were under \$200 contributions. In general, the Respondents' special review consisted of an
13 attempt to determine contributions that appeared not to have been previously reported and the
14 addition of the amounts of those contributions to arrive at the amended totals.

15 6. Based on documents and records, including bank records, provided by the
16 Respondents, Commission staff performed a reconciliation for the period January 1, 1997 and
17 December 31, 1998, between the amounts reported on the amended disclosure reports filed in
18 August 1999 and those on the bank records. The reconciliation indicated that cash had been
19 overstated at both January 1, 1997 and January 1, 1998. In addition, the reconciliation disclosed
20 differences in both reported receipts and disbursements; however, due to the incompleteness of
21 the records provided by Respondents, the source of the differences could not be determined. For
22 1997, receipts appear to be underreported by at least \$50,000, and for 1998 receipts appear to be
underreported by at least \$60,000. Disbursements were underreported by at least \$10,000 in

1 1997 and by at least \$26,000 in 1998. The Commission staff's reconciliation located a net
2 increase in unitemized contributions of only approximately \$17,000 over 1997 and 1998, rather
3 than the larger figure contained in the amended 1998 April Quarterly Report. The reconciliation
4 disclosed that the ending cash balance reported in Respondents' amended 1998 Year-End Report
5 filed in August 1999 appears to be materially correct. However, the documentation provided by
6 the Respondents does not support the \$68,821.07 increase as reported on the Respondents' 1999
7 Mid-Year Report. The Respondents' misreporting during 1997 and 1998 has affected the
8 accuracy of its subsequent reporting.

9 7. Respondents contend that the Committee staff person assigned to
10 preparing and filing reports with the Commission was a long-time and trusted employee, and that
11 she left the employment of the Committee shortly after it discovered accounting and reporting
12 errors as a result of a preliminary inquiry in connection with Committee reports filed with a state
13 agency. Respondents contend that during their special review, they discovered that this staff
14 person made reporting errors in preparing the reports to the Commission, including: failing to
15 report a number of contributions; reporting contributions incorrectly; failing to report some
16 transfers; not reporting some transfers correctly; and not consistently reporting interest income.
17 Respondents contend that they filed various amended reports promptly after the errors described
18 above were discovered and sufficient information was developed to enable Respondents to file
19 such reports; the cover letter filed with the amended reports specifically brought the errors found
20 by the Respondents to the attention of the Commission. Respondents contend that the violations
21 were not knowing and willful. For purposes of this agreement, Respondents will not contest the
22 accuracy of the Commission staff's bank reconciliation discussed in paragraph IV. 6.

V. 1. During 1997 and 1998, the Committee failed to keep account of all contributions they received, and failed to keep account of the name and address of each person who made a contribution in excess of \$50.00, together with the date and amount of such contribution, in violation of 2 U.S.C. § 432(c). The Committee agrees to cease and desist from violating 2 U.S.C. § 432(c).

2. During 1997, 1998, and 1999, the Committee failed to accurately report the amount of cash-on-hand at the beginning of reporting periods and the total amount of receipts and disbursements, in violation of 2 U.S.C. § 434(b). The Committee agrees to cease and desist from violating 2 U.S.C. § 432(b).

VI. 1. The Committee agrees to pay a civil penalty to the Federal Election Commission in the amount of Forty-Three Thousand dollars (\$43,000), pursuant to 2 U.S.C. § 437g(a)(5)(A);

2. Respondents agree to appropriately amend their disclosure reports after consultation with staff of the Audit Division with respect to the recently completed audit for the 2000 election cycle, in accordance with the schedule established with the Audit Division for compliance with the audit findings;

3. Respondents agree to send a representative who will have ongoing responsibility for the submission of the Respondents' FEC disclosure reports to attend training at an FEC Conference for Candidates and Party Committees in Washington, DC, within one year from the date this agreement becomes effective, as a means of educating Respondents as to their reporting obligations under the Act.

4. Respondents have represented that they have instituted the following policies and procedures to prevent reporting errors in the future: checking on a daily and weekly basis to

1 ensure that all checks are entered in the computer software; development of a two-person process
2 for handling cash which separates the entry of checks into the system from the depositing of
3 checks into the bank; preparation of deposit slips for each day's receipts; retention of all
4 validated deposit slips after each deposit is made, immediate restrictive endorsement of each
5 contribution check on receipt; daily preparation of a deposit slip to which is attached copies of all
6 checks deposited; monthly performance of bank reconciliations and proper security of blank
7 checks; monthly reconciliation of bank balances and general ledger amounts for cash accounts;
8 reconciliation of FEC reports to the general ledger before they are filed; and implementation of a
9 password protection system for the accounting software, with only the Office/Finance manager,
10 Executive Director and Information Services Director (if any) in possession of the password.
11 Respondents agree to maintain these, or substantially similar policies and procedures, in the
12 future.

13 VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.
14 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance
15 with this agreement. If the Commission believes that this agreement or any requirement thereof
16 has been violated, it may institute a civil action for relief in the United States District Court for
17 the District of Columbia.

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

20 IX. Unless otherwise specified herein, Respondents shall have no more than 30 days
21 from the date this agreement becomes effective to comply with and implement the requirements
22 contained in this agreement and to so notify the Commission.

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

5 FOR THE COMMISSION:

6 Lawrence H. Norton
7 General Counsel

8 BY:

9 
10 Rhonda J. Vostdigh
Associate General Counsel


Date 2/10/03

11 FOR THE RESPONDENTS:

12 
13 Thomas D. Vaughn, Esq.
14 Counsel for Respondents


Date 1/9/03