



FEDERAL ELECTION COMMISSION
Washington, DC 20463

JAN 29 2007

Neil Reiff, Esquire
Steve Hershkowitz, Esquire
Sandler, Reiff & Young, P.C.
50 E Street, S.E.,
Suite 300
Washington, D.C. 20003

Re: MUR 5659
Democratic Party of Hawaii
Yuriko Sugimura, in her official capacity as treasurer

Dear Messrs. Reiff and Hershkowitz:

On January 17, 2007, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 2 U.S.C. §§ 441b(a), 441a(f), and 434(b)(4)(H)(v), and 11 C.F.R. § 104.10(b)(4), provisions of the Federal Election Campaign Act of 1971, as amended, and the Commission's regulations. 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). 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,

A handwritten signature in black ink that reads "Cynthia E. Tompkins".

Cynthia E. Tompkins
Assistant General Counsel

Enclosure
Conciliation Agreement

27044154867

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4) MUR 5659
5 Democratic Party of Hawaii)
6 and Lynn Matusow, in her official)
7 capacity as treasurer)
8
9

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2006 DEC 15 A 10:42

10 **CONCILIATION AGREEMENT**

11
12 This matter was initiated by the Federal Election Commission ("the Commission")
13 pursuant to information ascertained in the normal course of carrying out its supervisory
14 responsibilities. The Commission found reason to believe that the Democratic Party of Hawaii
15 and its treasurer, ("Respondents") violated 2 U.S.C. § 441b(a), 2 U.S.C. § 441a(f), and 2 U.S.C.
16 § 434(b)(4)(H)(v) and 11 C.F.R. § 104.10(b)(4), provisions of the Federal Election Campaign
17 Act of 1971, as amended ("the Act"), and the Commission's regulations.¹

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

21 I. The Commission has jurisdiction over Respondents and the subject matter of this
22 proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C.
23 § 437g(a)(4)(A)(i).

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

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

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

¹ The facts relevant to this matter occurred both prior to and after the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, the activity prior to BCRA is subject to the provisions of the Act as it existed at that time and the activity after BCRA is subject to the Act as amended by BCRA. However, only minor events occurred after the effective date of BCRA.

27044154868

1 1. The Democratic Party of Hawaii ("the Committee") is a political committee within the
2 meaning of 2 U.S.C. § 431(4) and is a multicandidate committee within the meaning of 2 U.S.C.
3 § 441a(a)(4).

4 2. Lynn Matusow is the current treasurer of the Committee.²

5 3. The treasurer of a political committee is responsible for examining all contributions
6 received for evidence of illegality and for ascertaining whether contributions received, when
7 aggregated with other contributions from the same contributor, exceed the Act's contribution
8 limits. 11 C.F.R. § 103.3(b)

9 4. Pursuant to 2 U.S.C. § 441b(a), political committees are prohibited from knowingly
10 accepting contributions from labor organizations. Respondents accepted two contributions
11 totaling \$30,000 from the non-federal accounts of two labor organizations during the 2002
12 election cycle.

13 5. Pursuant to 2 U.S.C. § 441a(f), political committees are prohibited from knowingly
14 accepting contributions in excess of the Act's contribution limitations. The Act limits a person's
15 contributions to a party committee to \$5,000 per election. 2 U.S.C. § 441a(a)(1)(C). The Act
16 also limits a multicandidate committee's contributions to a party committee to \$5,000 per
17 election. 2 U.S.C. § 441a(a)(2)(C). Respondents accepted six contributions totaling \$36,000
18 from five individuals and a multicandidate committee that exceeded the Act's contribution
19 limitations during the 2002 election cycle.

20 6. The treasurer of a political committee is responsible for disclosing all disbursements
21 for the reporting period and the calendar year. 2 U.S.C. § 434(b)(4)(H)(v). A political

² Yuriko Sugimura was the treasurer of the Committee during the time of the activity addressed in this matter and at the time of the Commission's reason to believe findings.

1 committee that allocates federal/non-federal expenses shall report each disbursement it makes
2 from its federal account (or separate allocation account) to pay for a shared federal/non-federal
3 expense. 11 C.F.R. §104.10(b)(4). Respondents failed to report 52 disbursements totaling
4 \$155,125 made from the Committee's two non-federal accounts for television and radio
5 production, television advertising, research, postage, and consulting during calendar year 2002.
6 Respondents contend that most of the 52 expenditures were made solely in connection with non-
7 federal elections. However, Respondents lacked sufficient documentation, such as the content of
8 radio and television ads and the subject matter of research and consulting, to demonstrate that
9 52 disbursements totaling \$155,125 made from the Committee's non-federal accounts for
10 television and radio production, television advertising, research, postage, and consulting were
11 solely in connection with non-federal activities during the calendar year 2002. Therefore,
12 notwithstanding this contention, the Committee amended its reports under the belief that it was
13 required to do so to comply with the finding in the Commission's Audit Report.

14 V. The Commission finds that Respondents violated 2 U.S.C. § 441b(a), 2 U.S.C.
15 § 441a(f), and 2 U.S.C. § 434(b)(4)(H)(v) and 11 C.F.R. §104.10(b)(4). Respondents no longer
16 contest the 2 U.S.C. § 434(b)(4)(H)(v) and 11 C.F.R. § 104.10(b)(4) finding.

17 VI. Respondents will cease and desist from violating 2 U.S.C. § 441b(a), 2 U.S.C.
18 § 441a(f), and 2 U.S.C. § 434(b)(4)(H)(v) and 11 C.F.R. § 104.10(b)(4) by accepting prohibited
19 contributions, by accepting excessive contributions, and by failing to properly disclose allocable
20 disbursements in reports filed with the Commission.

21 VII. Respondents will pay a civil penalty to the Federal Election Commission in the
22 amount of Twenty-Two Thousand Dollars (\$22,000) pursuant to 2 U.S.C. § 437g(a)(5)(A).

27044154870

VIII. 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.

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

X. 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.


27044154871

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:


Lawrence H. Norton
General Counsel

BY:


Rhonda J. Vosdinger
Associate General Counsel
for Enforcement

1/29/07
Date

FOR RESPONDENTS:


Name: Neil Reiff
Title: Counsel

12/8/06
Date