



FEDERAL ELECTION COMMISSION
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MEMORANDUM

TO: The Commission

FROM: Anthony Herman
General Counsel

Stephen A. Gura
Deputy Associate General Counsel for Enforcement

BY: Mark Allen *MA*
Assistant General Counsel

Michael A. Columbo *MAC*
Attorney

SUBJECT: MUR 6054 (10-2002, LLC f/k/a Suncoast Ford; Gary J. Scarbrough)

RE: Pre-Probable Cause Conciliation

ACTIONS RECOMMENDED: (1) Approve the two separate _____ signed
Conciliation Agreements; (2) Approve the appropriate letters; and (3) Close the file as to 10-
2002, LLC f/k/a Suncoast Ford and Gary J. Scarbrough.

BACKGROUND: On June 28, 2011, the Commission determined that there was reason to
believe that 10-2002 LLC f/k/a Suncoast Ford (hereinafter, "Suncoast Ford") knowingly violated
2 U.S.C. §§ 441a(a) and 441f and that there was reason to believe that Gary J. Scarbrough
knowingly violated 2 U.S.C. § 441f. The Commission's determinations were based on evidence
that Scarbrough, the operating partner of Suncoast Ford, reimbursed a total of \$18,400 in
contributions from Suncoast Ford employees to Vern Buchanan for Congress ("VBFC") using
Suncoast Ford's funds.

On December 15, 2011, counsel for Suncoast Ford and Scarbrough submitted separate
signed conciliation agreements, which state that in March 2007, Scarbrough wrote a personal
contribution check to VBFC in the amount of \$4,600, as did Suncoast Ford controller Kenneth
Lybarger and employees Harold H. Glover, III, and M. Osman Ally. The two agreements further
state that Scarbrough directed Lybarger to issue reimbursement checks from Suncoast Ford's

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1 account to Scarbrough, Lybarger, Glover, and Ally. Respondents agreed not to further contest
2 the Commission's determinations and to cease and desist from violating the Act. Suncoast also
3 agreed to pay a \$7,000 civil penalty and Scarbrough agreed to pay an \$8,500 civil penalty.
4

5 **DISCUSSION:** We recommend that the Commission accept the attached [redacted]
6 Conciliation Agreements, which have been signed by Mark Ornstein, counsel to Suncoast Ford
7 and Scarbrough. See Attachments A and C.
8

9 [redacted]
10 [redacted]
11 [redacted]
12 [redacted]
13 | Both agreements also include modest contention
14 language consistent with Scarbrough's deposition testimony: "Suncoast Ford's Operating
15 Partner, Scarbrough, contends that he did not know that the reimbursements were illegal and that
16 once he was informed that reimbursing contributions is prohibited by law, he took corrective
17 action by requesting that VBFC refund the reimbursed contributions." See Paragraph IV.7.
18 Lastly, the Scarbrough agreement at paragraph V [redacted] states:
19

20 Based on the facts set forth above in paragraphs IV.1-8, the Commission
21 concluded that there was reason to believe that Scarbrough violated 2 U.S.C.
22 § 441f by assisting Suncoast Ford with contributing to Vern Buchanan for
23 Congress in the names of Scarbrough, Lybarger, Glover, and Osman. In order to
24 resolve this matter through conciliation, Scarbrough will not contest the
25 Commission's conclusion as set forth in this paragraph.
26

27 The Suncoast Ford agreement also has parallel language. [redacted]
28 [redacted]
29 [redacted]

30 | The
31 Commission has accepted very similar language in past MURs. See MURs 5181 (Ashcroft),
32 5225 (New York Senate 2000), 5749 (GSP Consulting Corp, et al.), and 5020 (Atlantic City
33 Showboat, et al.). The agreements include factual statements that Scarbrough directed Lybarger
34 to issue reimbursement checks from Suncoast Ford's account to Scarbrough and the other
35 conduits, and the agreements [redacted] the standard cease-and-desist clauses. Thus, including the
36 language quoted above seems to be [redacted] appropriate [redacted]
37 [redacted]
38 [redacted]
39 [redacted]
40 [redacted]
41 [redacted]
42 [redacted]

[redacted] Suncoast Ford has agreed to pay a \$7,000 civil penalty, [redacted]

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1 _____ Given these circumstances, we
2 believe this offer is reasonable.
3

4 _____ Scarbrough has agreed to pay an \$8,500 civil penalty, _____
5 _____ At his deposition, Scarbrough testified that
6 he had only been periodically employed after leaving Suncoast Ford, and he was training for a
7 customer service position with a phone company. See Scarbrough Depo Tr. at 47-50.
8 _____
9 _____

10 _____ Under the circumstances, we believe that the
11 civil penalty is reasonable.
12

13 Thus, we believe the proposed separate Conciliation Agreements represent reasonable
14 resolutions of this matter, and we recommend that the Commission accept them.
15

16 **RECOMMENDATIONS:**
17

- 18 1. Accept the attached Conciliation Agreements;
- 19 2. Approve the appropriate letters; and
- 20 3. Close the file as to 10-2002, LLC f/k/a Suncoast Ford and Gary J. Scarbrough.
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