



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Brian K. Plum
Republican Party of Virginia, Inc.
115 East Grace Street
Richmond, Virginia 23219

AUG 18 2010

RE: MUR 6300
Republican Party of Virginia, Inc.

Dear Mr. Plum:

On August 4, 2010, the Federal Election Commission accepted the signed conciliation agreement submitted on your behalf in settlement of a violation of 2 U.S.C. §§ 432(b), 434(b) and 441b(a), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

The file will be made public within 30 days after the matter has been closed with respect to all other respondents involved. You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Marianne Abely
Marianne Abely
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 6300
Republican Party of Virginia, Inc. and)
Brian K. Plum, in his official)
capacity as treasurer)
)

CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission made to the Federal Election Commission ("the Commission") by the Republican Party of Virginia, Inc. and Brian K. Plum, in his official capacity as treasurer ("Respondents"). The Commission found reason to believe that the Respondents violated 2 U.S.C. §§ 432(b) and 434(b) by failing to ensure the timely transmittal of contributions and by failing to accurately report contributions. The Commission also found reason to believe that the Respondents violated 2 U.S.C. § 441b(a) by accepting a prohibited corporate contribution.

NOW, THEREFORE, the Commission and the 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.
- II. The Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. The Respondents enter voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:

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1. The Republican Party of Virginia, Inc. ("RPV") is a qualified party committee. Brian K. Plum is the current treasurer for RPV.¹

2. Gen-X Strategies, Inc., ("Gen-X") which also does business as GXS Strategies, is registered as a corporation with the Virginia State Corporation Commission. Jeffrey M. Frederick, who served as RPV's chairman from May 21, 2008, until April 4, 2009, is also the Chief Executive Officer of Gen-X.

3. Gen-X provided online contribution processing services to RPV's federal account from June through September 2008. During the fall of 2008, Gen-X made an in-kind contribution to RPV valued at \$17,717.

4. The Federal Election Campaign Act of 1971, as amended, ("the Act") requires every person who receives a contribution in excess of \$50 for an unauthorized political committee to forward the contribution to the committee no later than 10 days after receiving the contribution. If the amount of the contribution is \$50 or less, that person must forward such contribution to the committee no later than 30 days after receipt. 2 U.S.C. § 432(b)(2)(a) and (b); 11 C.F.R. § 102.8(b)(1) and (2).

5. Political committees are required to report the total amount of receipts received during the reporting period, including contributions from individuals. 2 U.S.C. § 434(b); 11 C.F.R. § 104.3(a)(2)(i)(A). Such committees are also required to itemize contributions aggregating in excess of \$200 per election cycle and identify contributors by including his or her name, address, occupation, the name of his or her employer, if any, and the date of receipt and amount of the contribution. 2 U.S.C. § 434(b)(3); 11 C.F.R. § 104.3(a)(4)(i). The date of receipt for a contribution is the date

¹ Richard Neal, Jr. was the treasurer for RPV during the relevant time period.

on which the person receiving the contribution on behalf of a political committee obtains possession of that contribution. 11 C.F.R. § 102.8(b)(2). The date of receipt is the recording and reporting date for contributions. *Id.*; 11 C.F.R. § 104.8(a) and (b).

6. The Act prohibits corporations from making contributions or expenditures from their general treasury funds. 2 U.S.C. § 441b(a). Similarly, political committees are prohibited from accepting contributions from this prohibited source. *Id.*

7. In June 2008, Mr. Frederick transferred RPV's online contribution processing services from PayPal to a division of Gen-X called ChargedContributions.com. From June 2008 through September 2008, Gen-X accepted and processed 58 contributions totaling \$21,135 made on RPV's website. Gen-X transferred the funds into a merchant account maintained by ChargedContributions.com before disbursement to RPV. Gen-X transmitted the contributions to RPV by issuing two checks drawn from ChargedContributions.com's bank account. The first check (dated July 8, 2008) was in the amount of \$1,269.45 (representing 18 online contributions totaling \$1,365 less \$95.55 in fees). RPV deposited this check on the date of receipt, July 10, 2008. Gen-X received these 18 online contributions between June 23, 2008 and June 29, 2008. On October 8, 2008, RPV received the second check (dated October 1, 2008), which was in the amount of \$18,386.10 (representing 40 online contributions totaling \$19,770 less \$1,383.90 in fees). RPV deposited this check on the date of receipt. Gen-X received these 40 online contributions between July 8, 2008, and September 22, 2008. RPV disclosed the 58 contributions on either its 2008 August Report or its 2008 Pre-General Report, and it reported as the dates of receipt for those contributions the dates on which RPV deposited the two checks it received from Gen-X.

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8. The Act and Commission regulations anticipate that political committees will use agents to process contributions and make expenditures on their behalf. 2 U.S.C. § 432(a) and 11 C.F.R. § 102.9(b). During the relevant time period, Gen-X served as RPV's agent for purposes of accepting and processing its online contributions. From June – September 2008, contributors making contributions on RPV's website relinquished control of those contributions to the party committee's processing agent, Gen-X. 11 C.F.R. § 110.1(b)(6). Gen-X, as RPV's agent, was obligated to forward contributions of \$50 or less to RPV within 30 days of receiving those contributions and to forward contributions exceeding \$50 to RPV within 10 days of its receiving those contributions. 2 U.S.C. § 432(b)(2)(A) and (B); 11 C.F.R. § 102.8(b)(1) and (2). Gen-X, however, forwarded 33 (totaling \$18,960) out of the 58 online contributions it accepted and processed for RPV beyond the aforementioned 30/10 day deadlines. Specifically, Gen-X forwarded these 33 contributions between 11 and 92 days after they were made by the contributors online. RPV failed to ensure that its agent Gen-X forwarded 33 out of 58 online contributions within the required 30/10 day deadlines. 2 U.S.C. § 432(b).

9. For reporting purposes, the dates of receipt for the online contributions at issue are the dates on which Gen-X, as RPV's agent, obtained possession of those contributions. 11 C.F.R. § 102.8(b)(2). RPV reported receiving all of the online contributions at issue (totaling \$21,135) on the dates (July 10, 2008 and October 8, 2008) it deposited the two checks it received from Gen-X instead of the dates the contributors made their online contributions. As a result, RPV filed inaccurate reports with Commission.

10. In September 2008, Mr. Frederick instructed RPV's staff to report a \$17,717 in-kind contribution from Gen-X on its state election reports. This in-kind contribution was described in RPV's state disclosure reports as "website email and online contribute setup - actual cost." Gen-X provided services that included "activist web set up," "charged contribution set up," and a website e-mail service relating to the issuance of broadcast e-mail messages. Some of these broadcast e-mail messages mentioned federal candidates and elections. The State Central Committee of RPV transferred \$17,717 from its federal account to its non-federal account to reimburse the in-kind contribution. Gen-X's in-kind contribution was then reported as a federal contribution in an attachment to RPV's 2009 May Monthly Report filed with the Commission.

11. RPV accepted a prohibited in-kind contribution from Gen-X, which was an active corporation in Virginia during the relevant time period. 2 U.S.C. § 441b(a).

12. Since making its submission, RPV has taken a number of steps to ensure that the violations outlined in this Agreement do not recur and that it is in compliance with the Act. Specifically, RPV adopted stronger financial controls recommended by its independent auditor, required staff to attend compliance training, and refunded the subject 58 online contributions.

V. The Respondents violated 2 U.S.C. §§ 432(b), 434(b) and 441b(a).

VI. The Respondents will pay a civil penalty in the amount of Three Thousand and Three Hundred Dollars (\$3,300) pursuant to 2 U.S.C. § 437g(a)(5)(A). The Respondents will cease and desist from violating 2 U.S.C. §§ 432(b), 434(b) and 441b(a).

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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. The Respondent 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 in

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MUR 6300
Conciliation Agreement
Republican Party of Virginia, Inc.

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this written agreement shall be enforceable.

FOR THE COMMISSION:

Thomasenia P. Duncan
General Counsel

BY:

Kathleen Guith
Kathleen Guith
Acting Associate General Counsel
for Enforcement

8-17-10
Date

FOR THE RESPONDENTS:

Brian K. Plum
Brian K. Plum, Treasurer
Republican Party of Virginia, Inc.

7/16/10
Date

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