



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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**MAY 04 2016**

RE: MUR 7051  
Southern Alliance for Clean Energy

Dear Counsel:

On April 27, 2016, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of violations of 52 U.S.C. §§ 30104(f) and 30120, provisions of the Federal Election Campaign Act of 1971, as amended. 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) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(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) 694-1302.

Sincerely,

A handwritten signature in cursive script that reads "Rachel Flipse".

Rachel A. Flipse

Enclosure  
Conciliation Agreement

1-100-44107-100

In the Matter of )  
 )  
Southern Alliance for Clean Energy ) Pre-MUR 575  
 )  
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## CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission made to the Federal Election Commission (the “Commission”) by the Southern Alliance for Clean Energy (“Respondent”). The Commission engaged Respondent in Fast-Track Resolution under the Commission’s *sua sponte* policy, 72 Fed. Reg. 16,695 (Apr. 5, 2007), and thus has not made reason-to-believe findings in this matter.

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation, prior to findings of reason to believe, hereby enter into this Conciliation Agreement, which provides 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 into pursuant to 52 U.S.C. § 30109(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. Respondent is a nonprofit group organized under section 501(c)(3) of the Internal Revenue Code.

2. Respondent paid for a television advertisement regarding Senator Kay Hagan's efforts to protect air quality. The advertisement aired in North Carolina from March 24

through April 13, 2014 and suggested that viewers "Thank Senator Hagan for fighting for commonsense air quality protections." Senator Hagan was running for re-election during this time period. Respondent filed a report with the Commission disclosing disbursements related to this advertisement on July 25, 2014.

3. Under the Federal Election Campaign Act of 1971, as amended (the "Act"), an "electioneering communication" is a "broadcast, cable or satellite communication" that: (1) refers to a clearly identified candidate for Federal office; (2) is made within 60 days before a general election or 30 days before a primary election; and (3) is targeted to the relevant electorate. 52 U.S.C. § 30104(f)(3); 11 C.F.R. § 100.29(a). A "clearly identified candidate" means that the candidate's name, nickname, photograph or drawing appears or the identity of the candidate is otherwise apparent through an unambiguous reference. 11 C.F.R. § 100.29(b)(2). A communication is "targeted to the relevant electorate," in the case of a senatorial election, when it can be received by 50,000 or more persons in the state the candidate seeks to represent. 11 C.F.R. § 100.29(b)(5).

4. Every person who makes aggregate disbursements exceeding \$10,000 for the cost of producing and airing electioneering communications during any calendar year must, within 24 hours of each disclosure date, file a report with the Commission disclosing information regarding the communication. 52 U.S.C. § 30104(f); 11 C.F.R. § 104.20.

5. A portion of the time period during which Respondent aired the advertisement (beginning on April 6, 2014) fell within 30 days of North Carolina's primary election. The advertisement was, therefore, an electioneering communication because it clearly identified Senator Hagen and was targeted to the relevant electorate of North Carolina.

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6. The pro-rated cost of producing and airing the advertisement during the 30-day period before the primary election was \$369,914.89.

7. Respondent did not timely file the required electioneering communication report with the Commission.

8. The Act requires electioneering communications to contain disclaimers. 52 U.S.C. § 30120(a). The communications, if not authorized by a candidate, must clearly state the name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee. 52 U.S.C. § 30120(a)(3); 11 C.F.R. § 110.11(b)(3). Additionally, if the communication is transmitted by television, that statement must include an audio statement by the person who paid for the communication that he is responsible for the content of the advertisement. 52 U.S.C. § 30120(d)(2); 11 C.F.R. § 110.11(c)(4).

9. Respondent's advertisement did not include a complete disclaimer. The advertisement displayed a disclaimer indicating that it was "Paid for by the Southern Alliance for Clean Energy" and including Respondent's World Wide Web address. The advertisement did not state that it was not authorized by any candidate or candidate's committee or that Respondent was responsible for its content.

10. Respondent notes that upon discovery of the violations, it took corrective action by filing an electioneering communication report with the Commission, and contends that it made a complete disclosure to the Commission by initiating a *sua sponte* submission and implemented appropriate corrective measures intended to prevent similar violations from occurring in the future.

V. Respondent violated the Act as follows:

IX. 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 this written agreement shall be enforceable.

FOR THE COMMISSION:

Daniel A. Petalas  
Acting General Counsel

BY: Kathleen Guith  
Kathleen Guith  
Acting Associate General Counsel  
For Enforcement

5-3-16  
Date

FOR THE RESPONDENT:

Stephen A. Smyth  
(Name) Stephen A. Smyth  
(Position) Executive Director

2-10-2016  
Date

UNRECORDED