



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

ADVANCE COPY BY FACSIMILE

March 17, 2009

**Friends of Joe Lieberman *et al.*
c/o Brian G. Svoboda, Esq.
Perkins Cole
607 Fourteenth Street N.W.
Washington, DC 20005-2011**

**RE: MUR 5862
Friends of Joe Lieberman and
Lynn Fusco, in her official
capacity as treasurer**

Dear Mr. Svoboda:

On February 25, 2009, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of violations of 2 U.S.C. §§ 432(h)(1) and (2) and 434(b), 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). A copy of the agreement is enclosed for your information.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty and the appropriate amendments are due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1372.

Sincerely,

A handwritten signature in black ink, appearing to read "Roy Q. Lockett".

**Roy Q. Lockett
Attorney**

**Enclosure
Conciliation Agreement**

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BEFORE THE FEDERAL ELECTION COMMISSION

FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

In the Matter of)
)
Friends of Joe Lieberman and) MUR 5862
Lynn Fusco, in her official capacity as treasurer)

2009 FEB -6 P 4: 1

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Thomas Swan. The Federal Election Commission ("Commission") found reason to believe Friends of Joe Lieberman and Lynn Fusco, in her official capacity as treasurer ("Respondents"), violated 2 U.S.C. §§ 432(h)(1) and (2) and 434(b).

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

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

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

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

1. Friends of Joe Lieberman ("Committee") is a political committee within the meaning of 2 U.S.C. § 431(4), and is the authorized campaign committee of Senator Joseph Lieberman.

2. Lynn Fusco is the treasurer of the Committee.

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3. The Federal Election Campaign Act of 1971, as amended (the "Act"), provides that a political committee shall not make a disbursement (other than petty cash disbursements pursuant to section 432(h)(2)) in any form other than by check drawn on the committee's account at its designated campaign depository. 2 U.S.C. § 432(h)(1). Under the exception in 2 U.S.C. § 432(h)(2), a political committee may maintain a petty cash fund for disbursements not in excess of \$100 to any person in connection with a single purchase or transaction. The treasurer must keep a record of all petty cash disbursements, which shall include the name and address of every person to whom any disbursement is made, and the date, amount, and purpose of such disbursement. *See also* 2 U.S.C. § 432(c)(5).

4. The Act requires that an authorized committee of a candidate disclose for the reporting period and the election cycle the name and address of each person to whom it has made an expenditure in an aggregate amount or value in excess of \$200 within the calendar year to meet a committee or candidate operating expense, together with the date, amount and purpose of such operating expenditure, and keep records, including receipts, invoices, or cancelled checks, for each disbursement over \$200. 2 U.S.C. § 434(b)(5)(A). *See also* 2 U.S.C. § 432(c)(5).

5. Authorized committees are required to disclose the total of all disbursements for the reporting period and the election cycle, including expenditures made to meet candidate or committee operating expenses. 2 U.S.C. § 434(b)(4)(A).

6. The Committee's 2006 October Quarterly Report disclosed ten petty cash disbursements totaling \$384,061 that were described as stipend volunteer payments, and three petty cash disbursements totaling \$3,500 described as expenses for gas, water, food and

beverages. The Committee's 2006 Pre-Primary Report disclosed one additional cash disbursement in the amount of \$2,500 without describing its purpose.

7. The monies characterized as stipend volunteer payments were paid to canvassers for get-out-the-vote ("GOTV") activity in connection with Connecticut's 2006 primary election for the U.S. Senate. In making the payments, the Committee withdrew very large amounts of cash from its bank account on 14 separate occasions and gave the money to campaign consultants and volunteers who put cash in envelopes that were disbursed to canvassers, frequently in amounts well in excess of \$100.

8. In all, the Committee ultimately made cash payments to 1,003 canvassers totaling \$344,496, not \$384,061, as reported in the 2006 October Quarterly Report. Of the \$344,496 paid to canvassers, the Committee made at least 600 payments, totaling \$121,965, which exceeded the petty cash limit of \$100 per person in connection with a single transaction. The Committee paid 534 canvassers amounts that exceeded \$200 in the aggregate, ranging from \$240 to \$1,350, cumulatively totaling \$292,430. The Committee did not itemize these payments in its disclosure reports, or keep all the required records documenting them. The Committee also reported \$30,000 in disbursements to canvassers that were never made; the Committee withdrew \$75,000 on August 7, 2006 and returned \$30,000 to its bank account the next day, but did not disclose the amount returned in its initial 2006 October Quarterly Report. On June 13, 2008, the Committee amended its 2006 Quarterly Report to reflect the \$30,000 deposit.

9. One of the Committee's campaign consultants was responsible for recording and tracking the payments made to the canvassers. She created an Excel spreadsheet ("spreadsheet") showing monies owed to canvassers on a daily basis from July 22, 2006 through August 8, 2006.

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The spreadsheet did not, however, represent a complete accounting of cash disbursements for the canvassing period, or accurately record in many instances the dates that canvassers were actually paid. Moreover, some disbursements to canvassers were not reflected on the spreadsheet but appeared only on other documents. Some of these other documents show payments to canvassers, but do not include the dates of the disbursements, and some also show canvassers as having been paid in amounts greater than those for the same canvassers recorded on the spreadsheet. There are numerous instances where the spreadsheet and other documents record multiple payments to particular canvassers in differing amounts on the same date, usually aggregating in excess of \$100. There is also a list that contains only canvassers' first names, making it impossible to definitively confirm their identities.

10. Based on all the documentation, canvassers first started performing services for the campaign on July 21, 2006, not July 22, 2006 as shown on the spreadsheet, and they were not always paid on a daily basis. The first cash payments to canvassers occurred on July 27, 2006, not July 26, 2006, as reported in the 2006 October Quarterly Report. The Committee has been unable to account for \$9,565 in cash that was withdrawn during the canvassing period.

11. In addition to the cash payments to canvassers, the Committee made cash disbursements to others that exceeded \$100 per transaction. In its 2006 October Quarterly Report, the Committee reported a \$500 petty cash disbursement on July 25, 2006 for "gas cards water," a \$2,500 petty cash disbursement on July 26, 2006 for "gas/water," and a \$500 petty cash disbursement on July 29, 2006 for "food & beverage." The Committee's 2006 Pre-Primary Report disclosed an additional \$2,500 petty cash disbursement on July 19, 2006 that contains no information on the "Purpose of Disbursement" line. The Committee's records show that the

\$500 cash disbursement on July 25, 2006 went to two individuals in the amount of \$250 each, the \$2,500 cash disbursement on July 26, 2006 went to a single individual, and the \$2,500 cash disbursement on July 19, 2006 was made in seven payments to four individuals; the seven payments ranged from \$270 to \$500. All of these payments should have been made by check and itemized, but were not. The Committee was unable to provide any records identifying the recipient(s) of the reported \$500 petty cash disbursement on July 25, 2006 for "gas cards water."

12. The Committee's 2006 October Quarterly Report also disclosed duplicate payments to two consultants in the amounts of \$8,500 and \$12,200, respectively.

13. The Commission has no information and has made no finding that Senator Joseph Lieberman engaged in any wrongdoing in connection with the alleged campaign violations, nor that the petty cash disbursements at issue in this matter violated any statutes other than 2 U.S.C. §§ 432(h) and 434(b) as described in this agreement.

V. 1. Respondents failed to disclose the full names and addresses of recipients of disbursements aggregating in excess of \$200 during 2006, together with the dates, amounts, and purposes of such disbursements, and to keep full and accurate records of such disbursements; misreported payments to two consultants; and misreported a \$75,000 disbursement, in violation of 2 U.S.C. § 434(b).

2. Respondents disbursed cash to recipients in excess of \$100 in connection with a single transaction, in violation of 2 U.S.C. § 432(h)(1).

3. Respondents failed to keep an account of its cash payments to recipients that accurately recorded the date, amount, and purpose of each such cash disbursement, in violation of 2 U.S.C. § 432(h)(2).

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VI. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Fifty Thousand dollars (\$50,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents will cease and desist from violating 2 U.S.C. §§ 432(h)(1) and (2) and 434(b).

3. Respondents will amend its 2006 October Quarterly and Pre-Primary Reports, and to the extent appropriate, any subsequent reports on file with the Commission to correct the errors set forth in the Commission's findings in this agreement.

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. 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.


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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:

Thomasenia P. Duncan
General Counsel

BY:


Ann Marie Terzaken
Associate General Counsel
for Enforcement

3/16/09
Date

FOR THE RESPONDENTS:



6 Feb. 2009
Date

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