



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

**JUN 18 2012**

Rebecca H. Gordon, Esq.  
Perkins Coie LLP  
700 Thirteenth Street, N.W., Suite 600  
Washington, D.C. 20005-3960

RE: MUR 6593 (Pre-MUR 523)  
American Hospital Association

Dear Ms. Gordon:

On June 14, 2012, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 2 U.S.C. §§ 434(f) and 441d(a), 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* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a 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 "Mark Allen".

Mark Allen  
Attorney

Enclosure  
Conciliation Agreement

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**BEFORE THE FEDERAL ELECTION COMMISSION**

2012 MAY -8 PM 4:27

In the Matter of )

Pre-MUR 523

OFFICE OF GENERAL  
COUNSEL

American Hospital Association )

MUR 6593

**CONCILIATION AGREEMENT**

This matter was initiated by a *sua sponte* submission made to the Federal Election

Commission (the "Commission") by the American Hospital Association (the "Respondent").

The Commission engaged the Respondent in an expedited Fast-Track Resolution pursuant to its *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 the Respondent, having participated in informal methods of conciliation, prior to findings of reasons to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent 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. 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:

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2           1. Respondent is a trade association exempt from taxation under Section  
3 501(c)(6) of the Internal Revenue Code.

4           2. In April 2010, shortly after the passage of the Patient Protection and  
5 Affordable Care Act, Respondent sponsored a series of television advertisements thanking 16  
6 members of Congress for their support of the legislation. The ads identified the members of  
7 Congress by name, and were broadcast on television in their congressional district.

8           3. Under the Federal Election Campaign Act of 1971, as amended (the "Act"),  
9 an "electioneering communication" is a "broadcast, cable or satellite communication" that:  
10 (1) refers to a clearly identified candidate for Federal office; (2) is made within 60 days before a  
11 general election or 30 days before a primary election; and (3) is targeted to the relevant  
12 electorate. 2 U.S.C. § 434(f)(3)(A)(i); 11 C.F.R. § 100.29(a). A "clearly identified candidate"  
13 means that the candidate's name, nickname, photograph or drawing appears or the identity of the  
14 candidate is otherwise apparent through an unambiguous reference. 11 C.F.R. § 100.29(b)(2).  
15 A communication is "targeted to the relevant electorate" when it can be received by 50,000 or  
16 more persons in the district the candidate seeks to represent. 11 C.F.R. § 100.29(b)(5).

17           4. Every person who makes aggregate disbursements exceeding \$10,000 for the  
18 cost of producing and airing electioneering communications during any calendar year must,  
19 within 24 hours of each disclosure date, disclose information regarding the communication.  
20 2 U.S.C. § 434(f); 11 C.F.R. § 104.20.

21           5. Respondent aired the ads in the districts of then-Representatives Baron Hill  
22 (Indiana 9<sup>th</sup>) and John Boccieri (Ohio 16<sup>th</sup>) within 30 days of their respective primary elections.

6. Respondent spent a total of \$209,250.42 on those ads but did not timely file the required electioneering communication reports with the Commission.

7. The Act requires electioneering communications to contain disclaimers. 2 U.S.C. § 441d(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. 2 U.S.C. § 441d(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 ad. The disclaimer must be conveyed by a full screen view of a representative of the political committee or other person making the statement in voice-over and must also appear in writing on the screen for at least four seconds. 2 U.S.C. § 441d(d)(2); 11 C.F.R. § 110.11(c)(4).

8. The ad that the Respondent aired in Representative John Boccieri's district did not include a complete disclaimer. The written disclaimer stated only that the ad was paid for by the Respondent, and the broadcast did not contain the necessary voice-over and image.

V. 1. Respondent failed to timely file electioneering communication reports for the Hill and Boccieri ads in violation of 2 U.S.C. § 434(f).

2. Respondent failed to include a complete disclaimer in the Boccieri ad in violation of 2 U.S.C. § 441d(a).

**VI. Respondent will take the following actions:**

**1. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Eleven Thousand Dollars (\$11,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).**

**2. Respondent will cease and desist from violating 2 U.S.C. §§ 434(f) and 441d(a).**

**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. 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**


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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:

Anthony Herman  
General Counsel

BY:

  
Daniel A. Petalas  
Associate General Counsel  
for Enforcement

Date

6/15/12

FOR THE RESPONDENT:

  
(Name) Senior Vice President  
(Position) + General Counsel

Date

5/1/12

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