



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Brian G. Svoboda, Esq.  
Andrew H. Werbrock, Esq.  
Perkins Coie  
700 Thirteenth Street, N.W.  
Suite 600  
Washington, D.C. 20005-3960

DEC 21 2012

RE: MUR 6568  
Heath Shuler for Congress and  
Troy Burns in his official capacity as  
treasurer

Dear Messrs. Svoboda and Werbrock:

On December 18, 2012, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of Heath Shuler for Congress and Troy Burns in his official capacity as treasurer (the "Committee"), in settlement of a violation of 2 U.S.C. § 434(b), a provision 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 Committee and the Commission. *See* 2 U.S.C. § 437g(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) 694-1650.

Sincerely,

Ana J. Pena-Wallace  
Attorney

Enclosure  
Conciliation Agreement

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COMMISSION

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**BEFORE THE FEDERAL ELECTION COMMISSION**

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OFFICE OF GENERAL  
COUNSEL

FEC MAIL CENTER

In the Matter of

Heath Shuler for Congress and Troy Burns,  
in his official capacity as treasurer

MUR 6568

**CONCILIATION AGREEMENT**

This matter was initiated pursuant to information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Heath Shuler for Congress and Troy Burns, in his official capacity as treasurer ("Respondent"), violated 2 U.S.C. § 434(b).

NOW, THEREFORE, the Commission and the Respondent, 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 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:

1. Heath Shuler for Congress is the principal campaign committee for Representative Heath Shuler, who was a candidate for North Carolina's 11th Congressional District in the 2010 general election.

2. Troy Burns is the treasurer of Shuler for Congress ("Committee").
3. The treasurer of a political committee must file reports of all receipts and disbursements in accordance with the Federal Election Campaign Act of 1971, as amended ("Act"). 2 U.S.C. § 434(a). Such reports must disclose the total amount of all receipts and disbursements for that reporting period and calendar year. 2 U.S.C. § 434(b). Committees are also required to disclose itemized breakdowns of disbursements and disclose the name and address of each person who has received any disbursement in an aggregate amount or value in excess of \$200 within the calendar year, together with the date and amount of any such disbursement. *See* 2 U.S.C. § 434(b)(4), (5) and (6); 11 C.F.R. § 104.3(b)(2) and (4).
4. The Committee originally filed its 2010 October Quarterly Report on October 13, 2010. On January 31, 2011, the Committee filed an Amended 2010 October Quarterly Report disclosing previously unreported disbursements of \$228,085.
5. The Committee originally filed its 2010 12-Day Pre-General Report on October 21, 2010. On January 31, 2011, the Committee filed an Amended 2010 12-Day Pre-General Report disclosing previously unreported disbursements of \$371,053.
6. The Committee originally filed its 2010 30-Day Post-General Report on December 2, 2010. On January 31, 2011, the Committee filed an Amended 2010 30-Day Post-General Reports disclosing previously unreported disbursements of \$404,558.58.
7. Respondent did not comply with the Act's reporting requirement when it failed to disclose a total of \$1,003,696.58 in disbursements on the Committee's original 2010 October Quarterly, 2010 12-Day Pre-General, and 2010 30-Day Post-General Reports.
8. Respondent contends that it engaged an outside compliance firm to prepare and file its reports; that an employee of the outside compliance firm failed to check one

of Respondent's bank accounts before preparing the 2010 October Quarterly, the 2010 12-Day Pre-General, and the 2010 30-Day Post-General Reports; and that this failure resulted in the omission of disbursements from these reports. Respondent further contends that when it learned of the omissions, corrected reports were prepared and filed.

V. Respondent violated 2 U.S.C. § 434(b) by failing to accurately report disbursements on its original 2010 October Quarterly, 2010 12-Day Pre-General, and 2010 30-Day Post-General Reports.

VI. 1. Respondent will pay a civil penalty to the Commission in the amount of Twenty-Eight Thousand Eight Hundred Dollars (\$28,800), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondent will cease and desist in committing violations of 2 U.S.C. § 434(b).

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

oral, made by either party or by agents of either party, that is not contained within this written agreement shall be enforceable.

FOR THE COMMISSION:

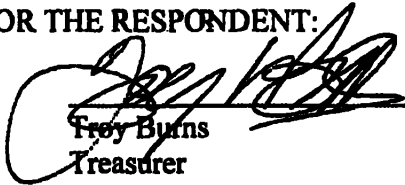
Anthony Herman  
General Counsel

BY:

  
\_\_\_\_\_  
Daniel A. Petalas  
Associate General Counsel  
for Enforcement

12/20/12  
Date

FOR THE RESPONDENT:

  
\_\_\_\_\_  
Frey Burns  
Treasurer

07/24/2012  
Date

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