



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA FIRST CLASS MAIL AND FACSIMILE**

Stephen Hershkowitz, Esq.  
Sandler, Reiff, Young & Lamb  
1025 Vermont Ave. NW  
Suite 300  
Washington, DC 20005  
Facsimile: (202)479-1115

**AUG 19 2011**

RE: MUR 6257  
Callahan for Congress, *et al.*

Dear Mr. Hershkowitz:

On August 17, 2011, the Federal Election Commission (the "Commission") accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 2 U.S.C. §§ 434(b)(3) and (4) and 441i(e) and 11 C.F.R. §110.3(d), provisions of the Federal Election Campaign Act of 1971, as amended, and the Commission's regulations. 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 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,

Wanda D. Brown  
Attorney

Enclosure  
Conciliation Agreement

11044301872

11044301873

1

**BEFORE THE FEDERAL ELECTION COMMISSION**

2

In the Matter of

3

4

John Callahan

5

6

Callahan for Congress and John V. Filipos,

7

in his official capacity as Treasurer,

8

9

Friends of John Callahan and John V. Filipos,

10

in his official capacity as Treasurer

)

)

)

)

)

)

)

)

)

MUR 6257

11

**CONCILIATION AGREEMENT**

12

This matter was initiated by an externally-generated complaint. The Federal

13

Election Commission ("Commission") found reason to believe that John Callahan,

14

Callahan for Congress and John V. Filipos, in his official capacity as Treasurer, (the

15

"Federal Committee") and Friends of John Callahan and John V. Filipos, in his official

16

capacity as Treasurer, (the "Mayoral Committee") (collectively "Respondents") violated

17

2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 110.3(d). The Commission also found reason

18

to believe that the Federal Committee violated 2 U.S.C. § 434(b)(3) and (4).

19

NOW, THEREFORE, the Commission and Respondents, having participated in

20

informal methods of conciliation prior to a finding of probable cause to believe, pursuant

21

to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

22

I. The Commission has jurisdiction over the Respondents and the subject

23

matter of this proceeding.

24

II. Respondents have had a reasonable opportunity to demonstrate that no

25

action should be taken in this matter.

26

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

27

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

1. During 2009-2010, John Callahan was a candidate for the United States House of Representatives for Pennsylvania's 15<sup>th</sup> Congressional District. Callahan officially announced his federal candidacy on July 27, 2009. He filed his Statement of Candidacy with the Commission and designated his principal campaign committee on July 31, 2009. In 2009, John Callahan was simultaneously an unopposed candidate for mayor of Bethlehem, Pennsylvania, in both the primary and general elections.

2. Callahan for Congress and John V. Filipos, in his official capacity as treasurer, (the "Federal Committee") is a political committee within the meaning of 2 U.S.C. § 431(4) and is Callahan's principal authorized federal committee.

3. Friends of John Callahan and John V. Filipos, in his official capacity as treasurer, (the "Mayoral Committee") is Callahan's mayoral campaign committee.

4. The Mayoral Committee made two payments totaling \$9,932 to vendor Stanford Campaigns for "opposition self-research." It made the first payment on May 6, 2009 for \$4,500 and the second payment on June 22, 2009 for \$5,432.

5. On January 15, 2010, the Federal Committee paid \$5,000 to the Mayoral Committee for the research and reported the disbursement on its 2010 April Quarterly Report.

11044301874

1                   6.     The Federal Election Campaign Act of 1971, as amended, (the  
2     "Act") prohibits a federal candidate, a candidate's agent and entities established,  
3     financed, maintained or controlled by them from soliciting, receiving, directing,  
4     transferring or spending funds in connection with a federal election, unless those funds  
5     are subject to the limitations, prohibitions and reporting requirements of the Act.

6     2 U.S.C. § 441i(e)(1)(A).

7                   7.     The Act also prohibits transfers of funds or assets from a  
8     candidate's campaign committee or account for a non-federal election to his or her  
9     principal campaign committee or other authorized committee for a federal election.  
10    11 C.F.R. § 110.3(d). A candidate's federal campaign committee may, however,  
11    purchase goods from its non-federal campaign committee so long as the federal campaign  
12    committee pays the "usual and normal charge" for such goods. The Commission's  
13    regulations define "usual and normal charge" as the "price of those goods in the market  
14    from which they would have been purchased at the time of the contribution." 11 C.F.R.  
15    § 100.52(d)(2).

16                  8.     Each treasurer of a political committee shall file reports of receipts  
17    and disbursements which shall disclose the identification of each person or political  
18    committee whose contribution or contributions have an aggregate amount or value in  
19    excess of \$200 within the election cycle, together with the date and amount of any such  
20    contribution; and for the reporting period and the election cycle, the total amount of all  
21    disbursements. 2 U.S.C. § 434(b)(3) and (4).

22

11044301875

1                   9.     The Commission found reason to believe that the Mayoral  
2 Committee's provision of the research to the Federal Committee for \$5,000 was less than  
3 the usual and normal charge of \$9,932. As a result, the Commission found reason to  
4 believe that the Mayoral Committee made, and the Federal Committee accepted, a \$4,932  
5 contribution to the Federal Committee, which the Federal Committee did not disclose on  
6 its 2010 April Quarterly report filed with the Commission.

7                   10.    The Respondents contend that they acted on their good-faith  
8 belief and advice of counsel that because both the Mayoral Committee and the Federal  
9 Committee used the research, the Commission's regulations addressing the allocation of  
10 expenses made on behalf of more than one political committee were applicable to this  
11 expenditure. The Respondents further contend that they believed because the research  
12 had to be updated when the Federal Committee used it, the "usual and normal charge"  
13 was less than the full price paid by the Mayoral Committee. However, in order to resolve  
14 this matter without additional proceedings before the Commission and the additional  
15 expenditure of funds, Respondents will not contest the Commission's findings and have  
16 agreed to settle this matter.

17           V.     Respondents violated the Act in the following ways:

18                   1.     John Callahan and Friends of John Callahan and John V. Filipos,  
19 in his official capacity as treasurer, violated 2 U.S.C. § 441i(e) and 11 C.F.R. § 110.3(d)  
20 by receiving a payment of less than the usual and normal charge for research sold to  
21 Callahan for Congress and John V. Filipos, in his official capacity as treasurer.

22                   2.     John Callahan and Callahan for Congress and John V. Filipos, in  
23 his official capacity as treasurer, violated 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R.

11044301876

1    § 110.3(d) by paying less than the usual and normal charge for research purchased from  
2    Friends of John Callahan and John V. Filipos, in his official capacity as treasurer.

3                    3.        Callahan for Congress and John V. Filipos, in his official capacity  
4    as treasurer, violated 2 U.S.C. § 434(b)(3) and (4) by failing to disclose the contribution  
5    of \$4,932 that it received from John Callahan and Friends of John Callahan and John V.  
6    Filipos, in his official capacity as treasurer.

7                    VI.       Respondents will cease and desist from violating 2 U.S.C. § 441i(e)(1)(A)  
8    and 11 C.F.R. § 110.3(d), and Callahan for Congress and John V. Filipos, in his official  
9    capacity as treasurer, will cease and desist from violating 2 U.S.C. § 434(b)(3) and (4).

10                   VII.       Callahan for Congress and John V. Filipos, in his official capacity as  
11    treasurer, will reimburse \$4,932 to Friends of John Callahan and John V. Filipos, in his  
12    official capacity as treasurer, and will amend its disclosure reports filed with the  
13    Commission to accurately reflect such activity.

14                   VIII.      Respondents will pay a civil penalty of \$1,200 pursuant to 2 U.S.C.  
15    § 437g(a)(5)(A).

16                   IX.       The Commission, on request of anyone filing a complaint under  
17    2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may  
18    review compliance with this agreement. If the Commission believes that this agreement  
19    or any requirement thereof has been violated, it may institute a civil action for relief in  
20    the United States District Court for the District of Columbia.

21                   X.        This agreement shall become effective as of the date that all parties hereto  
22    have executed same and the Commission has approved the entire agreement.

11044301877

1           XI.    Respondents shall have no more than thirty (30) days from the date this  
2 agreement becomes effective to comply with and implement the requirements contained  
3 in this agreement and to so notify the Commission.

4           XII.   This Conciliation Agreement constitutes the entire agreement between the  
5 parties on the matters raised herein, and no other statement, promise, or agreement, either  
6 written or oral, made by either party or by agents of either party, that is not contained in  
7 this written agreement shall be enforceable.

8   FOR THE COMMISSION:

9   Christopher Hughey  
10   Acting General Counsel

11  
12  
13   BY: Kathleen M. Guith  
14       Kathleen M. Guith  
15       Acting Associate General Counsel  
16       for Enforcement  
17

8-19-11  
\_\_\_\_\_  
Date

18  
19   FOR THE RESPONDENTS:

20  
21  
22  
23   Stephen Horowitz, Esq.   Neil Ruff  
24       Stephen Horowitz, Esq.  
25       Counsel for John Callahan,  
26       Friends of John Callahan and John V. Filipos,  
27       in his official capacity as treasurer, and  
28       John Callahan for Congress and John V. Filipos,  
29       in his official capacity as treasurer

7/29/11  
\_\_\_\_\_  
Date

11044301878