

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 )  
John Wolfe, Wolfe for Congress, )  
and Albert F. Teague Jr., as treasurer )

MUR 5297

2003 SEP -4 A 10: 12

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

**CONCILIATION AGREEMENT**

This matter was initiated by a signed, sworn, and notarized complaint filed by Donald F. McGahn II, on behalf of the National Republican Congressional Committee. The Federal Election Commission ("Commission") found reason to believe that John M. Wolfe violated 2 U.S.C. § 432(e)(1), and that John M. Wolfe, Wolfe for U.S. Congress, and Albert F. Teague Jr., as treasurer ("Respondents"), violated 2 U.S.C. §§ 434(a), and 434(b).

NOW, THEREFORE, the Commission and the 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. John M. Wolfe won the August 1, 2002 primary and was the Democratic Party nominee for the seat in the House of Representatives from Tennessee's 3<sup>rd</sup> Congressional

#902-904-40-2

District. Mr. Wolfe did not file a Statement of Candidacy with the Commission until September 19, 2002. Mr. Wolfe previously ran for Congress in 1998 and 2000.

2. Wolfe for U.S. Congress is a political committee within the meaning of 2 U.S.C. § 431(4), and on September 19, 2002, was designated as the authorized principal campaign committee for John M. Wolfe's 2002 Congressional campaign in Tennessee's 3<sup>rd</sup> Congressional District.

3. Albert F. Teague II has been the treasurer of Wolfe for U.S. Congress since a Statement of Organization was filed on September 19, 2002.

#### The Law

4. The Federal Election Campaign Act of 1971, as amended (the "Act"), requires each candidate to designate a principal campaign committee "no later than 15 days after becoming a candidate," by filing a statement of candidacy with the Commission. 2 U.S.C. § 432(e)(1); *and see* 11 C.F.R. § 101.1(a).

5. Pursuant to 2 U.S.C. § 431(2)(A) and (B), a person seeking nomination for Federal office becomes a candidate as defined by the Act when he or she gives consent for a committee to receive contributions or make expenditures of \$5,000 or more. A contribution is any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i). The Act defines expenditures as "any purchase, payment distribution, loan, advance, deposit, or gift of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(9)(A)(i).

6. All contributions to and expenditures by an authorized political committee must be reported in accordance with 2 U.S.C. § 434.

7. Pursuant to 2 U.S.C. §§ 434(a)(2)(A)(i), in years during which there is a regularly scheduled election, the treasurer of a political committee which is the principal campaign committee of a candidate seeking election must file, no later than the 12<sup>th</sup> day before any election in which the candidate is seeking election, or nomination for election, a pre-election report that includes receipts and disbursements as of the 20<sup>th</sup> day preceding the election.

8. In addition, pursuant to 2 U.S.C. §§ 434(a)(2)(A)(ii), in years during which there is a regularly scheduled election, the treasurer of a political committee which is the principal campaign committee of a candidate seeking election must file, no later than the 30<sup>th</sup> day after any general election in which such candidate has sought election, a post-general election report that includes receipts and disbursements as of the 20<sup>th</sup> day after the election.

9. In addition, pursuant to 2 U.S.C. §§ 434(a)(2)(A)(iii), in years during which there is a regularly scheduled election, the treasurer of a political committee which is the principal campaign committee of a candidate seeking election must file quarterly reports by the 15<sup>th</sup> day after the last day of each calendar quarter.

10. Pursuant to 2 U.S.C. § 434(b)(2)(B), the contents of the reports filed by the authorized political committees must disclose all contributions from the candidate. Furthermore, pursuant to 2 U.S.C. § 434(b)(7) each report required to be filed in an election year by an authorized committee shall include a total sum of all contributions received.

11. Pursuant to 2 U.S.C. § 434(b)(3)(A), the contents of the report filed by the authorized committee must include the identification of each person whose contribution(s) have an aggregate amount or value in excess of \$200 within the election cycle, including date and amount of the contribution(s).

23 . 04 . 406 . 2066

The 2002 Wolfe Campaign

12. From January 12, 2002 through November 4, 2002, Respondent Wolfe paid \$500 a week to WGOW 102.3 FM in Chattanooga, Tennessee for air time to broadcast a self-hosted radio show discussing local issues affecting Tennessee's 3<sup>rd</sup> Congressional district, including the upcoming Congressional election. Respondent Wolfe used this radio program to regularly criticize the record of incumbent Congressman Zach Wamp.

13. From March 13, 2002 through April 3, 2002, Respondent Wolfe made \$575.20 in campaign expenditures.

14. On April 3, 2002 Respondent Wolfe filed, with the Tennessee Secretary of State, a formal petition of candidacy for the Congressional seat in the 3<sup>rd</sup> District of Tennessee, thereby formally indicating that he had decided to become a candidate in the election.

15. By May 28, 2002 Respondent Wolfe had made more than \$5,000 in expenditures for the 2002 election. These expenditures included the \$500 a week he paid for his radio show after April 3, 2002. Respondent Wolfe did not file a Statement of Candidacy with the Federal Election Commission or designate a principal campaign committee until September 19, 2002.

16. Respondents made expenditures and received contributions in the amount of \$6,991.40 from March 13, 2002 through June 30, 2002. The required quarterly report disclosing these expenditures and contributions was due by July 15, 2002.

17. Respondents did not file any report disclosing the contributions and expenditures of Wolfe for U.S. Congress from March 13, 2002 through June 30, 2002 until October 15, 2002. This report disclosed \$1,066.60 in contributions and expenditures, but failed to include "in-kind" contributions made by Respondent Wolfe to fund his radio show between

April 3, 2002 and June 30, 2002. The report did not itemize the amounts of personal contributions from the candidate.

18. Respondent Wolf was a candidate in the August 1, 2002 Democratic primary election in Tennessee's 3<sup>rd</sup> Congressional district.

19. Respondents made expenditures in the amount of \$5,596.97 from July 1, 2002 through July 12, 2002. The required pre-election report disclosing these expenditures and contributions was due by July 20, 2002.

20. Respondents did not file a report disclosing the pre-primary election contributions and expenditures of Wolfe for U.S. Congress from July 1, 2002 through July 12, 2002 until October 15, 2002. This report disclosed \$5,096.97 in contributions and expenditures, but failed to include "in-kind" contributions made by Respondent Wolfe to fund his radio show between July 1, 2002 and July 12, 2002. The report did not itemize the amounts of personal contributions from the candidate.

21. Respondents made expenditures in the amount of \$35,387.04 from July 13, 2002 through September 30, 2002. The required quarterly report disclosing these expenditures and contributions was due by October 15, 2002.

22. Respondents filed a timely report disclosing the contributions and expenditures of Wolfe for U.S. Congress from July 13, 2002 through September 30, 2002 on October 15, 2002. This report disclosed \$29,387.04 in contributions and expenditures, but failed to include "in-kind" contributions made by Respondent Wolfe to fund his radio show between July 13, 2002 and September 30, 2002. The report did not itemize the amounts of personal contributions from the candidate.

23. Respondents made expenditures in the amount of \$12,522.69 from October 1, 2002 through October 16, 2002. The required pre-election report disclosing these expenditures and contributions was due by October 23, 2002.

24. Respondents did not file a report disclosing the contributions and expenditures of Wolfe for U.S. Congress from October 1, 2002 through October 16, 2002 until December 8, 2002. This untimely report disclosed only \$11,522.69 of contributions and expenditures, failing to include "in-kind" contributions made by Respondent Wolfe to fund his radio show between October 1, 2002 and October 16, 2002. The report did not itemize the amounts of personal contributions from the candidate.

25. Respondents made expenditures in the amount of \$12,938.80 from October 17, 2002 through November 25, 2002. The required post-general election report disclosing these expenditures and contributions was due by December 5, 2002.

26. Respondents did not file a post-general election report disclosing the contributions and expenditures of Wolfe for U.S. Congress from October 16, 2002 through November 25, 2002 until December 8, 2002. This untimely report disclosed only \$11,438.80 in contributions and expenditures, failing to include "in-kind" contributions made by Respondent Wolfe to fund his radio show between October 17, 2002 and November 5, 2002. The report did not itemize the amounts of personal contributions from the candidate.

27. Respondents made expenditures in the amount of \$2,884.65 from November 26, 2002 through December 31, 2002. The required year-end report disclosing these expenditures and contributions was due by January 31, 2003.

28. Respondents did not file a year-end report disclosing the contributions and expenditures of Wolfe for U.S. Congress from November 26, 2002 through December 31, 2002

23.04.406.2069

until March 12, 2003. The report did not itemize the amounts of personal contributions from the candidate.

29. Respondents' position is that the violations were honest mistakes that resulted from their lack of familiarity with the reporting requirements. Further, the Commission does not contend that the any of the violations were knowing and willfull.

V. 1. Respondent Wolfe violated 2 U.S.C. §§ 432(e)(1) by failing to file a statement of candidacy and by failing to designate a political committee to serve as his principal campaign committee no later than 15 days after becoming a candidate.

2. Respondents violated 2 U.S.C. § 434(a)(2)(A)(i) – (iii) by failing to file timely reports disclosing the receipts and expenditures of Wolfe for U.S. Congress from April 1, 2002 through June 30, 2002; from July 1, 2002 through July 12, 2002; from October 1, 2002 through November 25, 2002; and from November 26, 2002 through December 31, 2002.

3. Respondents violated 2 U.S.C. § 434(b)(3)(A) by failing to itemize personal contributions to Wolfe for U.S. Congress from Respondent Wolfe on the October Quarterly Report, the Post-Election Report, and the Year-End Report, which disclosed receipts and contributions of Wolfe for U.S. Congress for the periods of March 13, 2002 through September 30, 2002; October 1, 2002 through November 25, 2002; and November 26 through December 31, 2002, respectively.

4. Respondents violated 2 U.S.C. §§ 434(b)(2)(B), 434(b)(7) and 441a(7)(B)(ii) by failing to include \$21,500 in contributions and expenditures of Wolfe for U.S. Congress in its reports disclosing receipts and contributions from April 3, 2002 through November 25, 2002, which funds were used to fund a weekly radio talk show hosted by Respondent Wolfe.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of \$7,200 dollars, pursuant to 2 U.S.C. § 437g(a)(5)(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. Respondents shall have no more than thirty (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:

Lawrence H. Norton  
General Counsel

BY: Rhonda J. Vosdingh  
Rhonda J. Vosdingh  
Associate General Counsel  
for Enforcement

9/10/03  
Date

FOR THE RESPONDENTS:

John M. Wolfe, Jr.  
(Name)  
(Position)

2003/28 AUGUST  
Date

23.04.406.2071