



FEDERAL ELECTION COMMISSION
Washington, DC 20463

NOV 30 2007

Republicans for Trauner
c/o Stephen Simonton
1222 11th Street
Cody, WY 82414

RE MUR 5889
Republicans for Trauner and
Roger Shanor, in his official
capacity as treasurer

Dear Mr. Simonton

On November 23, 2007, the Federal Election Commission accepted the signed conciliation agreement and partial civil penalty submitted on behalf of Republicans for Trauner and Roger Shanor, in his official capacity as treasurer, in settlement of violations of 2 U.S.C. §§ 432(e)(4), 433(a), 434(a)(4), 434(g)(1), 441a(f), 441b(a) and 441d, 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). 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 \$1,800, the balance of 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

In the Matter of)
)
Republicans for Trauner and Roger Shanor, in his)
official capacity as treasurer)

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COMMISSION
OFFICE OF GENERAL
COUNSEL

CONCILIATION AGREEMENT

This matter was initiated by a complaint filed with the Federal Election Commission

("Commission") by Bill Maiers, campaign manager for Cubin for Congress, and by information
ascertained by the Commission in the normal course of carrying out its supervisory
responsibilities. The Commission found reason to believe that Republicans for Trauner and
Roger Shanor, in his official capacity as treasurer, ("Respondents" or "Committee") violated
2 U.S.C. §§ 432(e)(4), 433(a), 434(a)(4), 434(g)(1), 441a(f), 441b(a) and 441d.

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. Republicans for Trauner is a political committee within the meaning

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1 of 2 U.S.C. § 431(4) and is a “single candidate committee,” defined at 11 C.F.R. § 100.5(e)(2) as
2 a “political committee other than a principal campaign committee which makes or receives
3 contributions or makes expenditures on behalf of only one candidate.”

4 2. Roger Shanor is the treasurer of Republicans for Trauner.

5 3. Respondents were active in the 2006 general election for U.S. Representative
6 from Wyoming.

7 Use of a Candidate’s Name

8 4. The Federal Election Campaign Act of 1971, as amended, (“the Act”)
9 prohibits the use of a candidate’s name in the name of a non-authorized committee. 2 U.S.C.
10 § 432(e)(4). Republicans for Trauner, a non-authorized committee, uses the name of a candidate,
11 Gary Trauner, in its name, and none of the exceptions set forth in 11 C.F.R. § 102.14(b) apply.

12 Statement of Organization

13 5. The Act defines “political committee” as any group of persons which receives
14 contributions aggregating in excess of \$1,000 during a calendar year or which makes
15 expenditures aggregating in excess of \$1,000 during a calendar year. 2 U.S.C. § 431(4)(A).
16 According to their disclosure reports, Respondents first received over \$1,000 in contributions on
17 September 28, 2006, and thus exceeded the statutory threshold on that day. The Act further
18 requires committees such as Respondents to file a statement of organization with the
19 Commission within ten days after becoming a political committee. 2 U.S.C. § 433(a). Thus,
20 Respondents were required to file a statement of organization with the Commission by
21 October 8, 2006. Respondents did not file a statement of organization until November 2, 2006.

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1 Pre-General Election Report and Year End Report

2 6. Based on the timing of Respondents' activity, Respondents should have next
3 filed a Pre-General Election Report. Committees not authorized by candidates shall file a Pre-
4 Election Report, which shall be filed no later than the 12th day before any election in which the
5 committee makes contributions or expenditures in connection with the election if such
6 disbursements have not been previously disclosed. Such report shall disclose all receipts and
7 disbursements as of the 20th day before the election. 2 U.S.C. § 434(a)(4)(A)(ii); 11 C.F.R.
8 § 104.5(c)(1)(ii). Respondents made their first expenditure, \$1,200 for a newspaper
9 advertisement, on October 12, 2006. Because Respondents made this expenditure on behalf of
10 Gary Trauner, a candidate in the November 2006 election, Respondents should have filed a Pre-
11 General Election Report, which was due by October 26, 2006, covering their activity through
12 October 18, 2006, which included \$19,300 in contributions and \$1,200 in expenditures. *See*
13 2 U.S.C. § 434(a)(4)(A)(ii).

14 7. Subsequently, Respondents timely filed their 2006 Post-General Election
15 Report, but did not timely file their 2006 Year End Report, which was due by January 31, 2007.
16 *See* 2 U.S.C. § 434(a)(4)(A)(i). The Commission's Reports Analysis Division sent a Notice of
17 Failure to File to Respondents on March 7, 2007, and Respondents filed their Year End Report
18 on April 4, 2007. The Report discloses no receipts or disbursements during the covered period.

19 24-Hour Independent Expenditure Reports

20 8. An independent expenditure ("IE") is an expenditure for a communication that
21 is not coordinated and that expressly advocates the election or defeat of a clearly identified
22 candidate for Federal office. 2 U.S.C. § 431(17); 11 C.F.R. § 100.16. Respondents disclosed

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1 making \$26,622.52 in IEs on its Form 5 filed with the Commission on November 3, 2006, and on
2 its Post-General Election Report. However, Respondents made most of their IEs within 20 days
3 of the general election and, therefore, should have also filed 24-Hour IE reports. *See* 2 U.S.C.
4 § 434(g)(1). This provision requires persons making IEs aggregating \$1,000 or more after the
5 20th day, but more than 24 hours, before the date of an election to file a report describing the
6 expenditures within 24 hours. 2 U.S.C. § 434(g)(1)(A). Respondents did not timely disclose the
7 following IEs by filing 24-Hour reports:

Date	Amount	Purpose	Payee
10/25/2006	\$ 260.00	Mail piece	Snowy Range Graphics
10/25/2006	\$15,771.12	Mail piece	AMBI
10/27/2006	\$ 3,980.00	Radio ads	Cowboy State News Network
10/27/2006	\$ 200.00	Radio ads	KVOW Radio
10/27/2006	\$ 1,000.00	Radio ads	Big Horn Radio Network
11/03/2006	\$ 900.00	Radio ads	Big Horn Radio Network
11/03/2006	\$ 1,238.40	Newspaper ads	Casper Star Tribune
11/03/2006	\$ 696.00	Newspaper ads	Jackson Hole News & Guide
11/03/2006	\$ 849.00	Newspaper ads	Billings Gazette
TOTAL	\$24,894.52		

8
9 Disclaimers

10 9. The advertisements by Respondents, a political committee, were public
11 communications that contained incomplete and missing disclaimers. *See* 2 U.S.C. § 441d(a);
12 11 C.F.R. § 110.11(a). First, Respondents' newspaper advertisement, titled "Republicans for
13 Trauner' Believe Wyoming Needs Change," contained a disclaimer, "Paid by Republicans for
14 Trauner PAC." This advertisement, however, fails to state whether it was authorized by any
15 candidate. *See* 2 U.S.C. § 441d(a)(2) and (3). Further, the disclaimer is not set forth in a printed
16 box. *See* 2 U.S.C. § 441d(c)(2).

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1 10. Second, Respondents' flyer, titled "Republicans for Trauner," was mailed to
2 22,000 households across Wyoming, contained no disclaimer. Under the Commission's
3 regulations, Respondents' flyer constituted a "public communication." *See* 11 C.F.R. §§ 100.26
4 ("public communication" definition includes "mass mailing") and 100.27 ("mass mailing"
5 defined as mailing by U.S. mail more than 500 pieces of mail matter of an identical or
6 substantially similar nature within any 30-day period). As a public communication by a political
7 committee, the flyer was subject to the Act's disclaimer requirements. *See* 2 U.S.C. § 441d(a)
8 and 11 C.F.R. § 110.11(a)(1).

9 11. Finally, Respondents' radio advertisement contained the disclaimer "This ad
10 is paid for by Republicans for Trauner." Like Respondents' newspaper advertisement, their radio
11 advertisement fails to state whether it was authorized by any candidate. *See* 2 U.S.C.
12 § 441d(a)(2) and (3). Further, the Act requires specific additional disclaimer language for radio
13 (and television) communications that are not authorized by candidates or candidate committees
14 or their agents: "_____ is responsible for the content of this advertising," with the blank to be
15 filled in with the name of the political committee or other person paying for the communication.
16 2 U.S.C. § 441d(d)(2). Respondents' radio advertisement does not contain this language.

17 Receipt of Excessive and Prohibited Contributions

18 12. As a political committee, Respondents should have complied with the
19 contribution limitations and source prohibitions of the Act, which they failed to do. Respondents
20 received \$17,099 in excessives and \$846 in apparent corporate contributions.

21 13. During the 2006 election cycle, the contribution limit for a person giving to a
22 candidate and his or her authorized committees was \$2,100 per election. *See* 2 U.S.C.

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1 § 441a(a)(1)(A). For contributors to Respondents, this limit applies to their aggregate
2 contributions to Respondents and to Trauner for Congress, Gary Trauner's principal campaign
3 committee. The federal disclosure reports filed by Respondents and Trauner for Congress
4 indicate that seven individuals contributed to both committees. Three of these contributors' total
5 contributions to the two committees exceeded the applicable contribution limit of \$2,100 per
6 election:

<u>Name</u>	<u>Amount</u>	<u>Date</u>	<u>Recipient</u>
Armstrong, Geoff	\$2,100	12/25/2005	Trauner for Congress
Armstrong, Geoff	\$2,100	9/11/2006	Trauner for Congress
Armstrong, Geoff	\$ 500	9/28/2006	Republicans for Trauner
Farkas, Andrew	\$2,100	9/29/2006	Trauner for Congress
Farkas, Andrew	\$4,600	10/31/2006	Republicans for Trauner
Morris, Bob	\$1,900	6/14/2006	Trauner for Congress
Morris, Bob	\$2,100	7/10/2006	Trauner for Congress
Morris, Bob	\$ 199	unitemized	Trauner for Congress
Morris, Bob	\$5,000	10/04/2006	Republicans for Trauner
Morris, Bob	\$5,000	10/10/2006	Republicans for Trauner
Morris, Bob	\$2,000	10/30/2006	Republicans for Trauner

7
8 14. The Commission's regulations explain the application of contribution limits
9 for contributors who give to political committees which support the same candidate. Pursuant to
10 11 C.F.R. § 110.1(h), a person may contribute to a candidate or his or her authorized committee
11 with respect to a particular election and also contribute to a political committee which has
12 supported, or anticipates supporting, the same candidate in the same election, as long as (1) the
13 political committee is not the candidate's principal campaign committee or other authorized
14 political committee or a single candidate committee; (2) the contributor does not give with the

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1 knowledge that a substantial portion will be contributed to, or expended on behalf of, that
2 candidate for the same election; and (3) the contributor does not retain control over the funds.
3 The effect of section 110.1(h) is that contributors who give to both the candidate committee and
4 the other committee supporting the same candidate may be subject to the single limit applicable
5 to contributions to the candidate committee.

6 15. Contributions to Respondents do not meet the requirements of section
7 110.1(h) for two reasons. First, Respondents are a "single candidate committee." Respondents'
8 very name, and their activity in the form of independent expenditures on behalf of a single
9 candidate, indicate their status as a single candidate committee. Second, contributors to
10 Respondents knew that their contributions would be contributed to or expended on behalf of
11 Gary Trauner. *See* 11 C.F.R. § 110.1(h)(2). Respondents' name, as well as the solicitation
12 contained in their newspaper advertisement, made clear to contributors that their funds would be
13 spent in support of Gary Trauner. Accordingly, contributions to Respondents count against
14 contributors' section 441a(a) limits for contributions to Trauner for Congress.

15 16. Respondents accepted excessive contributions from the three individuals listed
16 above. *See* 2 U.S.C. § 441a(f) (no political committee shall knowingly accept any contribution in
17 violation of section 441a).

18 Receipt of Corporate Contributions

19 17. Respondents disclosed to the Wyoming Secretary of State the receipt of two
20 corporate contributions, \$696.00 from Treeline Marketing, Inc. and \$150.00 from Rocky
21 Mountain, Inc. Respondents did not disclose to the Commission a \$696.00 contribution from
22 Treeline Marketing, but did disclose a \$696.00 contribution from Dave Solitt, whose employer

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1 is identified as Treeline Marketing. Respondents did not disclose the \$150.00 Rocky
2 Mountain, Inc. contribution to the Commission; however, Respondents did not itemize to the
3 Commission any contributions as small as \$150.00. *See* 2 U.S.C. § 434(b)(3)(A) (itemization
4 requirement applies to contributions which aggregate above \$200 in a calendar year).

5 18. Respondents accepted corporate contributions. *See* 2 U.S.C. § 441b(a) (no
6 political committee shall knowingly accept any corporate contribution).

7 19. Respondents contend they had no prior experience nor any expertise
8 regarding the Act and that their violations were due to oversights and not an intention to violate
9 the Act. Respondents further contend that promptly upon discovery of their violations, they
10 made every effort to bring the Committee into compliance.

11 V. 1. Based on the foregoing, Republicans for Trauner and Roger Shanor, in his
12 official capacity as treasurer, violated 2 U.S.C. §§ 432(e)(4), 433(a), 434(a)(4), 434(g)(1),
13 441a(f), 441b(a) and 441d.

14 2. Republicans for Trauner and Roger Shanor, in his official capacity as
15 treasurer, will cease and desist from violating 2 U.S.C. §§ 432(e)(4), 433(a), 434(a)(4),
16 434(g)(1), 441a(f), 441b(a) and 441d.

17 VI. Respondents will pay a civil penalty to the Federal Election Commission
18 in the amount of Three Thousand, Six Hundred Dollars (\$3,600), pursuant to 2 U.S.C.
19 § 437g(a)(5)(A).

20 VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.
21 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance
22 with this agreement. If the Commission believes that this agreement or any requirement thereof

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1 has been violated, it may institute a civil action for relief in the United States District Court for
2 the District of Columbia.

3 VIII. This agreement shall become effective as of the date that all parties hereto
4 have executed same and the Commission has approved the entire agreement.

5 IX. Respondents shall have no more than 30 days from the date this agreement
6 becomes effective to comply with and implement the requirements contained in this agreement
7 and to so notify the Commission.

8 X. This Conciliation Agreement constitutes the entire agreement between the parties
9 on the matters raised herein, and no other statement, promise, or agreement, either written or
10 oral, made by either party or by agents of either party, that is not contained in this written
11 agreement shall be enforceable.

12 FOR THE COMMISSION:

13 Thomasenia P. Duncan
14 General Counsel

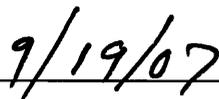
15 BY:

16 
17 Ann Marie Terzaken
18 ~~Acting~~ Associate General Counsel
for Enforcement


Date

19 FOR THE RESPONDENTS:

20 
21 (Name)
22 (Position)


Date

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