FEDERAL ELECTION COMMISSION
Washington, DC 20463

AUG 17 2015

Timothy Kronquist, Esq.
Jason Torchinsky, Esq.
Holtzman Vogel Josefiak PLLC
45 North Hill Drive
Suite 100
Warrenton, Virginia 20186

15044376242

RE: MUR 6922 (Michael Henke)

Dear Messrs. Torchinsky and Kronquist:

On, August 11, 2015, the Federal Election Commission accepted the signed conciliation agreement in settlement of violations of 52 U.S.C. §§ 30118(a) and 30122, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and 11 C.F.R. §§ 114.2(e) and 110.4(b)(1)(iii). Accordingly, the file has been closed in this matter as to Mr. Henke.

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. 66,132 (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* 52 U.S.C. § 30109(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) 694-1618.

Sincerely,

Kimberly D. Hart

Kimberly D. Hart
Attorney

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Michael Henke	)	MUR 6922

CONCILIATION AGREEMENT

This matter was initiated pursuant to information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities in response to a *sua sponte* filing submitted by ACA International, a section 501(c)(6) trade organization and its separate segregated fund, ACPAC.

The Commission found reason to believe that Michael Henke knowingly and willfully violated 52 U.S.C. § 30118(a)[1] (formerly 2 U.S.C. § 441b(a)) and 11 C.F.R. § 114.2(e) by consenting to the making of a prohibited corporate contribution. The Commission further found reason to believe that Michael Henke knowingly and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) and 11 C.F.R. § 110.4(b)(1)(iii) by causing contributions to be made in the names of others.

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 52 U.S.C. § 30109(a)(4)(A)(i) (formerly 2 U.S.C. § 437g(a)(4)(A)(i)).

[1] On September 1, 2014, the Federal Election Campaign Act of 1971, as amended ("Act") was transferred from Title 2 to new Title 52 of the United States Code.

15044376243

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. ACA is an incorporated not-for-profit trade association servicing businesses and individuals in the credit and collection industry.

2. ACPAC ACA International Political Action Committee ("ACPAC") is ACA's separate segregated fund ("SSF") and is registered with the Commission as an unauthorized qualified non-party committee. Rae Ann Bevington is ACPAC's current treasurer. Jean Cottington ("Cottington") was ACPAC's treasurer from April 15, 2008 to April 25, 2011.

3. Michael Henke ("Henke") was ACA's Vice-President of Finance and ACPAC's Assistant Treasurer from April 15, 2008 to April 25, 2011.

4. On November 12, 2010, Henke transferred $23,419 by wire from ACA's general treasury account to ACPAC's account to address what he believed was an inadvertent deposit in ACA's account of contributions intended for ACPAC. Acting with the assistance of other members of his staff, Henke identified prior ACPAC donors who had contributed less than the maximum $5,000 limit and attributed to them the $23,419 as additional contributions made to ACPAC. This caused ACPAC to report to the Commission that those individuals had made $23,419 in contributions to ACPAC.

5. On January 20, 2011, after Henke discovered that in fact no discrepancy existed in ACA's general treasury account, Henke reversed the transfer by issuing a $23,419 check from ACPAC to ACA that he caused to be dated November 12, 2010, which was the date of the prior transfer. This caused ACPAC to report to the Commission that the $23,419 check constituted a

15044376244

refund to the contributors who Henke and his staff had associated with the November 12, 2010, transfer.

6. On January 31, 2011, Cottington filed the 2010 Year-End Report which inaccurately disclosed "Refunds of Contributions to Persons Other Than Political Committees" in the amount of $23,419 and inaccurately itemized records of refunds to the contributors associated with the previously reported contributions. On February 7, 2011, ACPAC filed Amended 2010 Post-General and 2010 Year-End reports with the Commission.

7. Henke contends that ACPAC was not part of ACA's Finance Department. According to Henke, ACPAC's treasurer reported to ACA's Corporate Counsel/Vice President of Legal and Government Affairs, and not Henke. Henke contends that he had no actual knowledge that ACPAC filed an amended Statement of Organization designating him as the Assistant Treasurer of ACPAC during the relevant periods. Henke also contends that neither ACA nor ACPAC provided him with training concerning campaign finance laws.

8. Henke contends that he relied on information provided by an external ACA consultant leading him to believe that contributions from individuals were inadvertently deposited in ACA's general treasury account. Henke contends that this information caused him to make the wire transfer totaling $23,419 from ACA's general treasury account to ACPAC. Henke contends that he did so to address the perceived imbalance in ACA's general treasury account. Further, Henke contends that when he instructed his staff to identify the additional contribution amounts that would be included in ACPAC's disclosure reports to the Commission, he was attempting to attribute those funds to their original sources. Henke acknowledges that ACPAC initially filed inaccurate reports to the Commission because the contributors identified as the source of the $23,419 had not in fact made those contributions.

15044376245

9. Henke further contends that he issued the check on January 20, 2011 from ACPAC to ACA in the amount of $23,419, but dated as of the original transfer date, because he believed at that time that it was the proper way to correct the prior transfer and balance the bank records, while maintaining the "cash basis" of accounting required by the Commission for ACPAC. Henke acknowledges that ACPAC filed inaccurate reports to the Commission because ACPAC did not in fact refund contributions in that amount to the contributors listed in the prior disclosure reports.

V. The pertinent legal principles in this matter are as follows:

1. The Act prohibits corporations from making contributions to a federal political committee (other than independent expenditure-only political committees). 52 U.S.C. § 30118(a) (formerly 2 U.S.C. § 441b(a)); Advisory Op. 2010-11 (Commonsense Ten). It further prohibits any officer of a corporation from consenting to any such contribution by the corporation. 52 U.S.C. § 30118(a) (formerly 2 U.S.C. § 441b(a)); 11 C.F.R. § 114.2(e).

2. The Act also provides that "no person shall make a contribution in the name of another person." 52 U.S.C. §30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(i). That prohibition extends to knowingly helping or assisting "any person in making a contribution in the name of another." 11 C.F.R. § 110.4(b)(1)(iii).

VI. Respondent acknowledges the following violations of the Act for purposes of reaching this Conciliation Agreement with the Commission:

1. Michael Henke violated 52 U.S.C. § 30118(a) (formerly 2 U.S.C. § 441b(a)) and 11 C.F.R. § 114.2(e).

15044376246

2. Michael Henke violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) and 11 C.F.R. § 110.4(b)(1)(iii).

VII. Respondent will take the following actions:

1. Respondent will cease and desist from violating 52 U.S.C. § 30118(a) and 30122 (formerly 2 U.S.C. §§ 441b(a) and 441f); and 11 C.F.R. §§ 114.2(e) and 110.4(b)(1)(iii).

2. Respondent will pay a civil penalty of $23,419 pursuant to 52 U.S.C. § 30109 (a)(5)(A) (formerly 2 U.S.C. § 437g(a)(5)(A)).

VIII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) (formerly 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.

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

X. Respondents 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.

XI. 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:

15044376247

8/13/15
Date

Daniel Petalas
Daniel A. Petalas
Associate General Counsel
for Enforcement

FOR THE RESPONDENT:

7/23/2015
Date

BY:

Jason Torchinsky, Esq.
Timothy E. Kronquist, Esq.
Counsel for Respondent Michael Henke
Holtzman Vogel Josefiak PLLC

15044376248