



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Southern Alliance for Clean Energy ) Pre-MUR 575  
 )  
 )

CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission made to the Federal Election Commission (the "Commission") by the Southern Alliance for Clean Energy ("Respondent"). The Commission engaged Respondent in Fast-Track Resolution under the Commission's *sua sponte* policy, 72 Fed. Reg. 16,695 (Apr. 5, 2007), and thus has not made reason to believe findings in this matter.

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation, prior to findings of reason to believe, hereby enter into this Conciliation Agreement, which provides as follows:

- I. The Commission has jurisdiction over Respondent and the subject matter of this proceeding and this agreement has the effect of an agreement entered into pursuant to 52 U.S.C. § 30109(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. Respondent is a nonprofit group organized under section 501(c)(3) of the Internal Revenue Code.
  - 2. Respondent paid for a television advertisement regarding Senator Kay Hagan's efforts to protect air quality. The advertisement aired in North Carolina from March 24

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through April 13, 2014 and suggested that viewers "Thank Senator Hagan for fighting for commonsense air quality protections." Senator Hagan was running for re-election during this time period. Respondent filed a report with the Commission disclosing disbursements related to this advertisement on July 25, 2014.

3. Under the Federal Election Campaign Act of 1971, as amended (the "Act"), an "electioneering communication" is a "broadcast, cable or satellite communication" that: (1) refers to a clearly identified candidate for Federal office; (2) is made within 60 days before a general election or 30 days before a primary election; and (3) is targeted to the relevant electorate. 52 U.S.C. § 30104(f)(3); 11 C.F.R. § 100.29(a). A "clearly identified candidate" means that the candidate's name, nickname, photograph or drawing appears or the identity of the candidate is otherwise apparent through an unambiguous reference. 11 C.F.R. § 100.29(b)(2). A communication is "targeted to the relevant electorate," in the case of a senatorial election, when it can be received by 50,000 or more persons in the state the candidate seeks to represent. 11 C.F.R. § 100.29(b)(5).

4. Every person who makes aggregate disbursements exceeding \$10,000 for the cost of producing and airing electioneering communications during any calendar year must, within 24 hours of each disclosure date, file a report with the Commission disclosing information regarding the communication. 52 U.S.C. § 30104(f); 11 C.F.R. § 104.20.

5. A portion of the time period during which Respondent aired the advertisement (beginning on April 6, 2014) fell within 30 days of North Carolina's primary election. The advertisement was, therefore, an electioneering communication because it clearly identified Senator Hagen and was targeted to the relevant electorate of North Carolina.

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1. Respondent failed to timely file an electioneering communication report for the advertisement in violation of 52 U.S.C. § 30104(f).

2. Respondent failed to include a complete disclaimer in the advertisement in violation of 52 U.S.C. § 30120(a)(3) and (d)(2).

VI. Respondent will take the following actions:

1. Respondent will pay a civil penalty to the Commission in the amount of Nineteen Thousand Dollars (\$19,000), pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will cease and desist from violating 52 U.S.C. §§ 30104(f) and 30120.

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(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.

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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:

Daniel A. Petalas  
Acting General Counsel

BY: Kathleen Guith  
Kathleen Guith  
Acting Associate General Counsel  
For Enforcement

5-3-16  
Date

FOR THE RESPONDENT:

  
(Name) Stephen A. Smyth  
(Position) Executive Director

2-10-2016  
Date

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