



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

SEP - 8 2009

**First Class Mail**

William Canfield, Esq.  
Utrecht & Phillips, PLLC  
1900 M Street, NW  
Suite 500  
Washington, DC 20036

RE: MUR 6167  
Craig Romero for Congress, Inc. and  
William Potter, in his  
official capacity as treasurer

Dear Mr. Canfield:

On August 27, 2009, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 2 U.S.C. §§ 441a and 441b, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 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 "William Powers".

William Powers  
Attorney

Enclosure  
Conciliation Agreement

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OFFICE OF GENERAL  
COUNSEL

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of	)	
	)	
Craig Romero for Congress, Inc.	)	MUR 6167
and William Potter in his official	)	
capacity as treasurer	)	
	)	

**CONCILIATION AGREEMENT**

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Craig Romero for Congress Inc., and William Potter, in his official capacity as treasurer, (the "Respondents") violated 2 U.S.C. §§ 441a(f) and 441b(a).

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:

Applicable Law

- 1. Candidates and committees may not accept contributions from the treasury funds of corporations (i.e., any incorporated organization, including a non-stock

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corporation, an incorporated membership organization, and an incorporated cooperative) or limited liability companies ("LLCs") that elect to be treated as corporations under IRS rules. 2 U.S.C. § 441b(a); 11 C.F.R. § 110.1(g)(3).

2. No person shall make contributions to any candidate and his or her authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$2,000 in any calendar year. 2 U.S.C. § 441a(a)(1)(A).
3. No candidate or political committee shall knowingly accept any contributions that exceed the limits established by 2 U.S.C. § 441a. 2 U.S.C. § 441a(f).
4. If a committee receives a contribution that appears to be excessive, the committee must either: 1) return the questionable contribution to the donor; or 2) deposit the contribution into its federal account and keep enough funds in the account to cover all potential refunds until the legality of the contribution is established. 11 C.F.R. § 103.3(b)(3) and (4).
5. A committee may redesignate the excessive portion of a contribution to another election, but the committee must, within 60 days of receipt of the contribution, notify the contributor of the amount of the contribution that was redesignated and the option to request a refund. 11 C.F.R. § 110.1(b)(5).

#### **Factual Background**

6. Respondents are Craig Romero for Congress, Inc., the principal campaign committee for Craig Romero, and William Potter, in his official capacity as treasurer.

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7. Pursuant to 2 U.S.C. § 438(b), the Commission conducted an audit of Craig Romero for Congress, Inc. (the "Committee"). The audit covered the period from March 22, 2004 through December 31, 2004.
8. Based upon the audit, the Commission found that the Committee received contributions, totaling \$116,208, that exceeded the limits established by 2 U.S.C. § 441a(a)(1)(A).
9. Of the excessive contributions, \$46,989 was refunded by the Committee, although not within 60 days of the treasurer's receipt of the contribution as required by 11 C.F.R. § 110.1(b).
10. The remaining \$69,219 resulted from the Committee's failure to obtain a proper written designation pursuant to 11 C.F.R. §§ 110.1(b)(4)(i) and (ii).
11. The Committee also failed to obtain signed redesignations from contributors or provide notifications to contributors of such redesignations within 60 days of receipt of the contributions.
12. The Commission's audit also discovered that the Committee received contributions totaling \$40,295 from the treasury funds of various corporations and LLCs during the 2004 election cycle.
13. The Committee failed to ascertain the entity status of the LLCs as required by 11 C.F.R. §§ 110.1(g)(5) and 103.3(b).
14. The Committee has since refunded \$40,195 of these prohibited contributions.
15. Respondents contend that that its ability to obtain proper written redesignations was materially and adversely impacted by the physical relocation of many of the donors to the Committee outside the 3rd Congressional District and the State of

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Louisiana, due to Hurricanes Katrina and Rita, which struck the 3rd Congressional District of Louisiana immediately after the 2004 elections that are at issue in this Conciliation Agreement.

**V. Respondents committed the following violations:**

1. The Committee violated 2 U.S.C. § 441a(f) by knowingly accepting excessive contributions.
2. The Committee violated 2 U.S.C. § 441b(a) by knowingly accepting contributions from prohibited sources.

**VI. Respondents will take the following actions:**

1. In ordinary circumstances, the Commission would seek a substantially higher civil penalty based on the violations outlined in this agreement as well as the mitigating circumstances, including that the Respondents refunded contributions received in violation of 2 U.S.C. § 441b(a) as directed by the Commission's auditors. However, the Commission is taking into account the fact that the Committee is defunct, has very little cash on hand, and has a limited ability to raise any additional funds. Respondents will pay a civil penalty to the Federal Election Commission in the amount of five thousand dollars (\$5,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).
2. Respondents will cease and desist from violating 2 U.S.C. §§ 441a(f) and 441b(a).
3. Within 45 days of the date this agreement becomes effective, Respondents will seek redesignations or redistributions pursuant to 11 C.F.R. § 110.1(b) and (k) of the \$69,219 in excessive contributions it received. Respondents will make a good faith effort to refund to the contributor, or in the alternative, disgorge to the U.S.

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Treasury, the \$69,219 less any redesignated or reattributed contributions obtained from these donors, in excessive contributions received in violation of 2 U.S.C. § 441a(a). The Respondents will notify the Commission, by letter, of all redesignations or reattributions made by the Respondents. If Respondents have insufficient funds to cure the excessive contributions remaining after seeking redesignations and reattributions, and after making a good faith effort to refund to the contributor or disgorge the excessive contributions, Respondents will notify the Commission of this fact and state the amount of excessive contributions that they were unable to redesignate, reattribute, refund, or disgorge.

4. Respondents will refund to the contributor, or in the alternative, disgorge to the U.S. Treasury, the remaining \$100 in unresolved prohibited contributions received in violation of 2 U.S.C. § 441b(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. Except as provided in Section VI.3., 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.

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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.

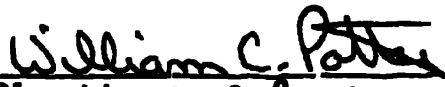
**FOR THE COMMISSION:**

Thomasenia P. Duncan  
General Counsel

BY:   
Ann Marie Torzaken  
Associate General Counsel  
For Enforcement

9/8/09  
Date

**FOR THE RESPONDENTS:**

  
Name: WILLIAM C. POTTER  
Title: TREASURER  
Craig Romero for Congress, Inc.

7/23/09  
Date

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