

PAID

CK. NO

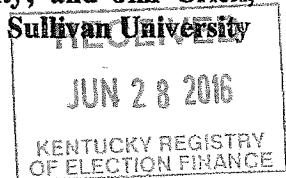
1081

DATE

06-28-2016

**KENTUCKY REGISTRY OF ELECTION FINANCE
CASE NO. 2011-191**

In re: The Sullivan University System, Inc., Alva Ray Sullivan, Registered Agent; A.R. Sullivan, individually and as Chancellor of Sullivan University; and Jim Crick, individually and as Vice-President for Enrollment Management, Sullivan University



CONCILIATION AGREEMENT

This Conciliation Agreement, entered into by and between the **Kentucky Registry of Election Finance** (Registry) and **Jim Crick** (Crick), former Vice President for Enrollment Management¹ for Sullivan University Systems, Inc. (Sullivan, Inc.), arises from a sworn complaint filed by Kayla Porter (Porter) on September 2, 2011. Porter's complaint alleged that Sullivan, Inc. held a two-day training summit for admissions staff in which Crick and Chancellor A.R. Sullivan (Sullivan) expressly advocated for the defeat of sitting Attorney General Jack Conway. Porter further alleged that Crick concluded the summit by requesting staff to send individual \$25 contributions payable to the Campaign Fund of Todd P'Pool for Attorney General (P'Pool campaign) to Crick personally in the Sullivan, Inc. corporate admissions office, not directly to the P'Pool campaign, to be bundled to the total of \$2,000 then mailed to the P'Pool campaign. According to Porter, Crick stated he would make up the difference if the Sullivan, Inc. admissions office was unable to collect enough \$25 individual contributions to make \$2,000. KCF

Respondents received notice of Porter's allegations pursuant to KRS 121.140 and 32 KAR 2:030. In an initial response, Crick, Sullivan, and Sullivan University, Inc., by counsel, collectively stated that they had investigated the factual allegations set forth in the complaint and

¹ Respondents' Response, by counsel, indicates that Crick announced his retirement from Sullivan, Inc. in November 2014 and is no longer Vice-President for Enrollment Management.

were prepared to file specific responses to any alleged violations of KRS Chapter 121 once they had been given specific notice of which provisions of which statutes were allegedly violated.

Upon filing her complaint with the Registry, Porter filed a similar complaint letter with the Office of the Attorney General (OAG). The OAG assigned a special prosecutor in the matter and the Registry agreed to defer action on the alleged campaign finance violations until such time as any criminal investigation and/or possible prosecution by the OAG was completed. An investigation was conducted by the Kentucky State Police (KSP); however, prosecution of the matter was declined.

Thereafter, on February 19, 2016, the General Counsel issued a Staff Report and Recommendations ("Staff Report"), finding reason to believe and recommending that the Registry dismiss the allegation of a corporate contribution due to statements made by Sullivan and Crick expressly advocating the defeat of Jack Conway and further dismiss any alleged violation of KRS 121.310, as no evidence was presented to show that Sullivan, Inc. or its agents coerced employees to vote for P'Pool. However, it was recommended that the Registry find probable cause to believe that Sullivan, Inc. and Crick, in his official capacity as Vice-President of Sullivan, Inc., violated KRS 121.025 and KRS 121.035, by utilizing a corporate training summit to launch a corporate sponsored fundraising effort for the P'Pool campaign and by further soliciting and receiving contributions from Sullivan, Inc. employees written directly to the P'Pool campaign in the corporate workplace.

In response to the Staff Report, Sullivan, Inc. and Crick, by counsel, argued that KRS 121.025 and KRS 121.035 do not regulate the voluntary and uncompensated provision of solicitation and fundraising services by corporate officers and employees. In addition, the

Response argued that Crick's solicitation of campaign contributions for the P'Pool campaign by Crick constitutes constitutionally protected free speech.

On March 16, 2016, a Supplemental Staff Report and Recommendations (Supplemental Staff Report) was issued, again recommending dismissal of the alleged violation of KRS 121.310 and further dismissal of alleged violations of KRS 121.025 and KRS 121.035 by Sullivan, based on Sullivan's statements advocating the defeat of Jack Conway. However, it was recommended that the Registry find probable cause to believe that Sullivan, Inc. and Crick, in his official capacity as Vice-President of Sullivan, Inc., unknowingly violated KRS 121.025 and KRS 121.035(2), by utilizing the Sullivan, Inc. training summit to launch a corporate sponsored fundraising effort for the P'Pool campaign and by further soliciting and receiving contributions from Sullivan, Inc. employees in the workplace to be delivered to the P'Pool campaign by Crick on behalf of Sullivan, Inc.

Thereafter, at its March 23, 2016 regular meeting, the Registry approved the General Counsel's recommendation in part, dismissing the allegations as to Sullivan, Inc. and the alleged violation of KRS 121.025 by Crick. However, the Registry found probable cause to believe that Crick committed a non-knowing violation of KRS 121.035(2) and directed that the non-knowing violation be referred to the Executive Director and General Counsel to begin conciliation as a civil matter including a civil penalty as set forth below.

NOW, THEREFORE, the Registry and Crick having duly entered into conciliation pursuant to KRS 121.140(2), do hereby agree as follows:

1. The Registry has jurisdiction over Crick and the subject matter of this administrative action.

2. Crick received a reasonable opportunity to demonstrate that no action should be taken in this matter and waives the right to further hearings.

3. Crick enters voluntarily, with full knowledge and understanding, into this Conciliation Agreement with the Registry.

4. The pertinent facts and law in this matter are as follows:

- a. Jim Crick (Crick) was Vice-President of Enrollment Management for Sullivan, Inc. when the alleged acts forming the basis of this complaint occurred.
- b. Porter's complaint alleged that Sullivan, Inc. held a two-day training summit for admissions staff in which Crick and Chancellor A.R. Sullivan (Sullivan) expressly advocated for the defeat of sitting Attorney General Jack Conway. Porter further alleged that Crick concluded the summit by requesting staff to send individual \$25 contributions payable to the Campaign Fund of Todd P'Pool for Attorney General (P'Pool campaign) to Crick personally in the Sullivan, Inc. corporate admissions office, not directly to the P'Pool campaign, to be bundled to the total of \$2,000 then mailed to the P'Pool campaign. According to Porter, Crick stated he would make up the difference if the Sullivan, Inc. admissions office was unable to collect enough \$25 individual contributions to make \$2,000.
- c. Records collected by the Kentucky State Police (KSP) during a separate investigation corroborate Porter's complaint. Specifically, on August 6, 2011, Crick sent an electronic mail message to several Sullivan, Inc. staff regarding the subject, "Training Summit Follow-Up." stating as follows:

A special thanks to those that have provided support for the Todd P'Pool campaign. Please have your personal checks to me no later than Tuesday August 9th if you are able to donate. It certainly is not mandatory, but anything that you can do will certainly assist in his election effort.

- d. KRS 121.310(2) states, in relevant part, "No corporation organized or authorized to do business in this state shall influence or attempt to influence, by bribe, favor, promise, inducement or otherwise, the vote or suffrage of any employee of such corporation against or in favor of any candidate . . . in any election held under the laws of this state."
- e. KRS 121.025 states, in relevant part, "No corporation authorized to do business in this state . . . and no officer or agent of a corporation on its behalf, shall contribute, either directly or indirectly, any money, service, or other thing of value towards the nomination or election of any state . . . officer in this state."
- f. KRS 121.035(2) states, in relevant part, "No officer . . . of any corporation organized or authorized to do business in this state . . . or person acting for or representing any such corporation, shall disburse, distribute, pay out, or in any way handle any money, funds, or other thing of value that belongs to or has been or is being furnished by any such corporation . . . or employee thereof to be used or employed in any way for the purpose of aiding, assisting, or advancing any candidate for public office in this state."
- g. The Registry's General Counsel recommended that the Registry dismiss the alleged violation of KRS 121.310 and further dismiss alleged violations of KRS 121.025 and KRS 121.035 by Sullivan, based on Sullivan's statements

advocating the defeat of Jack Conway. However, it was recommended that the Registry find probable cause to believe that Sullivan, Inc. and Crick, in his official capacity as Vice-President of Sullivan, Inc., unknowingly violated KRS 121.025 and KRS 121.035(2), by utilizing the Sullivan, Inc. training summit to launch a corporate sponsored fundraising effort for the P'Pool campaign and by further soliciting and receiving contributions from Sullivan, Inc. employees in the workplace to be delivered to the P'Pool campaign by Crick on behalf of Sullivan, Inc.

- h. Sullivan, Inc. and Crick, by counsel, argued that KRS 121.025 and KRS 121.035 do not regulate the voluntary and uncompensated provision of solicitation and fundraising services by corporate officers and employees and that Crick's solicitation of campaign contributions for the P'Pool campaign by Crick constitutes constitutionally protected free speech.
- i. At its March 23, 2016 regular meeting, the Registry approved the General Counsel's recommendations in part, dismissing the allegations not only as to Sullivan as recommended, but also dismissing all allegations against Sullivan, Inc. and the alleged violation of KRS 121.025 by Crick. However, the Registry found probable cause to believe that Crick committed a non-knowing violation of KRS 121.035(2).
- j. For purposes of settlement, Crick acknowledges and understands that the Registry has found probable cause to believe that Crick's receipt of individual contributions payable to P'Pool campaign from Sullivan, Inc. admissions

staff, for bundling and delivery to the P'Pool campaign, while acting in his official capacity as Vice-President of Sullivan, Inc., violates KRS 121.035(2).

5. Pursuant to KRS 121.140(2), Crick agrees to remit herewith a civil penalty in the amount of \$500.00 by check or money order made payable to the Kentucky State Treasurer for the above-referenced violation.

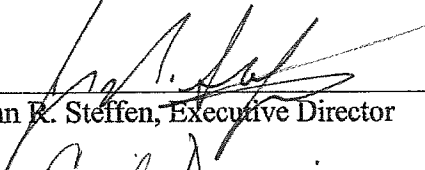
6. The Registry reserves the right to review compliance with this Conciliation Agreement. If the Registry believes Crick has not complied with the terms and/or conditions of this Conciliation Agreement, the Registry may institute a civil action in Franklin Circuit Court pursuant to KRS 121.140(3).

7. Upon execution of this Conciliation Agreement by the parties herein, payment of the assessed civil penalty, and approval of the Conciliation Agreement by the Registry, this Conciliation Agreement shall become effective and this complaint will be dismissed with prejudice.

8. 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.

9. It is agreed and understood that the specific terms of this Conciliation Agreement are deemed confidential until executed by the parties hereto. Upon execution of this Conciliation Agreement by all parties hereto and approval by the Registry, this Conciliation Agreement shall become a matter of public record and the statutory requirement of confidentiality shall no longer apply to this Conciliation Agreement in accordance with 32 KAR 2:050, Section 2.

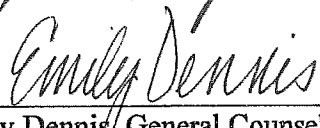
FOR THE KENTUCKY REGISTRY OF ELECTION FINANCE:



John R. Steffen, Executive Director

9/29/16

Date




Emily Dennis, General Counsel

29 Sept 2016

Date

FOR RESPONDENT JIM CRICK:



Jim Crick, former Vice President of Enrollment
Sullivan University Systems, Inc.

6/20/14

Date