



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 4, 2011

VIA FAX (602-298-7117) and CERTIFIED MAIL

Luis A. Heredia
Executive Director
Arizona Democratic Party
2910 North Central Avenue
Phoenix, AZ 85012

RE: MUR 6267
Jonathan Paton;
Paton for Senate and Jonathan Paton,
in his official capacity as Treasurer;
Jonathan Paton for Congress and
Jeffrey John Hill, in his official
capacity as Treasurer

Dear Mr. Heredia:

This is in reference to the complaint you filed with the Federal Election Commission on March 22, 2010, concerning Jonathan Paton for Congress and Jeffrey John Hill, in his official capacity as Treasurer. The Commission found that there was reason to believe Jonathan Paton, Paton for Senate and Jonathan Paton, in his official capacity as Treasurer, and Jonathan Paton for Congress and Jeffrey John Hill, in his official capacity as Treasurer, violated 2 U.S.C. § 441i(e)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended, and 11 C.F.R. § 110.3(d) of the Commission's regulations. Additionally, the Commission found reason to believe that Jonathan Paton violated 2 U.S.C. § 432(e)(1). On December 22, 2010, a conciliation agreement signed by the respondents was accepted by the Commission. Accordingly, the Commission closed the file in this matter on December 22, 2010. A copy of the conciliation agreement is enclosed for your information.

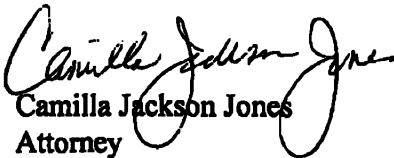
Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

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Luis A. Heredia
MUR 6267
Page 2

If you have any questions, please contact me at (202) 694-1650.

Sincerely,


Camilla Jackson Jones
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of

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Jonathan Paton

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Paton for Senate and Jonathan Paton,

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in his official capacity as Treasurer;

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Jonathan Paton for Congress and Jeffrey John Hill,

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in his official capacity as Treasurer

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MUR 6267

OFFICE OF GENERAL
COUNSEL

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RECEIVED
FEDERAL ELECTION
COMMISSION

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CONCILIATION AGREEMENT

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This matter was initiated by an externally-generated complaint. The Federal

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Election Commission ("Commission") found reason to believe that Jonathan Paton, Paton

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for Senate and Jonathan Paton, in his official capacity as Treasurer (the "State

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Committee"), and Jonathan Paton for Congress and Jeffrey John Hill, in his official

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capacity as Treasurer (the "Federal Committee") (collectively "Respondents"), violated

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2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 110.3(d) when the State Committee's non-

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federal funds were used to pay for survey and polling expenditures for the Federal

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Committee. The Commission also found reason to believe that Jonathan Paton failed to

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file his Statement of Candidacy timely, in violation of 2 U.S.C. § 432(e)(1).

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NOW, THEREFORE, the Commission and Respondents, having participated in

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informal methods of conciliation prior to a finding of probable cause to believe, pursuant

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to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

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I. The Commission has jurisdiction over the Respondents and the subject

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matter of this proceeding.

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II. Respondents have had a reasonable opportunity to demonstrate that no

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action should be taken in this matter.

III. Respondents voluntarily enter into this agreement with the Commission.

3 Background

6 2. Paton for Senate is Paton's state senate campaign committee.

7 Jonathan Paton, the State Committee's Treasurer, is a respondent in his official capacity.

8 3. Jonathan Paton for Congress (the "Federal Committee"), is a
9 political committee within the meaning of 2 U.S.C. § 431(4), and is Paton's principal
10 authorized candidate committee. Jeffery John Hill, the Federal Committee's Treasurer, is
11 a respondent in his official capacity.

12 4. On January 26, 2010, the Federal Committee filed its Statement of
13 Organization with the Commission, which designated Jonathan Paton as the candidate.
14 Paton had received or made at least \$5,000 in contributions and expenditures by January
15 26, 2010.

16 5. Paton did not file his Statement of Candidacy until April 1, 2010.

17 6. On November 23, 2009, the State Committee reported an
18 expenditure of \$2,709 for "Survey," and on December 14, 2009, it reported an
19 expenditure of \$4,857 for "Vulnerability Study & Expenses." These disbursements were
20 for expenses related to Paton's federal candidacy.

21 7. On February 23, 2010, the Federal Committee made a
22 disbursement to the State Committee in the amount of \$7,566 for items described as
23 “polling & research.” These disbursements constituted a 100% reimbursement to the

1 State Committee for the November 2009 "Survey" and December 2009 "Vulnerability
2 Study." The Federal Committee reported this disbursement in its April 2010 Quarterly
3 Report, which was filed timely.

4 Applicable Law

5 8. The Federal Election Campaign Act of 1971, as amended, ("the
6 Act") prohibits a Federal candidate, a candidate's agent, and entities established,
7 financed, maintained or controlled by them from soliciting, receiving, directing,
8 transferring, or spending funds in connection with a Federal election, unless those funds
9 are subject to the limitations, prohibitions, and reporting requirements of the Act. 2
10 U.S.C. § 441i(e)(1)(A).

11 9. The Act also prohibits transfers of funds or assets from a
12 candidate's campaign committee or account for a non-federal election to his or her
13 principal campaign committee or other authorized committee for a Federal election.
14 11 C.F.R. § 110.3(d); *see also* Explanation and Justification, 57 Fed. Reg. 36,344
15 (August 12, 1992). If a candidate has an account for a non-federal election, those funds
16 must be kept separate from federal funds and may not be transferred to his or her federal
17 account or used to pay for expenditures related to his or her federal election activities. *Id.*

18 10. The Act states that an individual becomes a candidate for Federal
19 office when his or her campaign either receives or makes \$5,000 in contributions or
20 expenditures. 2 U.S.C. § 431(2). As an exception to this general rule, an individual may
21 raise or spend more than \$5,000 without triggering candidate status only if he or she is
22 engaged in permissible "testing the waters" activities, and if the individual gives no
23 indication that a decision to run has already been made. *See* 11 C.F.R. §§ 100.72(a) and

1 100.131(a). A candidate who is testing the waters is also precluded from soliciting,
2 receiving, or spending funds in connection with an election for Federal office, unless
3 those funds are subject to the limitations, prohibitions, and reporting requirements of the
4 Act, as set forth in 2 U.S.C. § 441i(e).

5 11. Once an individual who is "testing the waters" achieves candidate
6 status, the Act requires him to file a Statement of Candidacy within fifteen days,
7 designating a principal campaign committee. 2 U.S.C. § 432(e)(1). The candidate's
8 principal campaign committee must file a Statement of Organization no later than ten
9 days after it has been designated by the candidate. 2 U.S.C. § 433(a).

10 Facts

11 12. In November 2009 and December 2009, while Paton was testing
12 the waters for a federal candidacy, the State Committee made disbursements of \$2,709
13 and \$4,857, respectively, for survey and polling that benefited the federal campaign.

14 13. The Federal Committee reimbursed the State Committee for the
15 survey and polling expenses on February 23, 2010, a fact which was disclosed in the
16 Federal Committee's April 2010 Quarterly Report.

17 14. The Federal Committee received or made \$5,000 in contributions
18 or expenditures no later than January 26, 2010, the date on which it filed its Statement of
19 Organization. Although the Statement of Organization listed Jonathan Paton as the
20 candidate, Paton did not file his Statement of Candidacy until April 1, 2010.

21 15. Respondents do not dispute that the Statement of Candidacy was
22 filed late, in violation of 2 U.S.C. § 432(e)(1).

1 V. Respondents violated the Act in the following ways:

2 1. Jonathan Paton violated 2 U.S.C. § 432(e)(1) by failing to file a
3 Statement of Candidacy timely.

4 2. Jonathan Paton violated 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R.
5 § 110.3(d) by using non-federal funds to pay for expenditures in connection with an
6 election for federal office, thereby transferring assets from his state campaign to his
7 federal campaign committee.

8 3. Paton for Senate and Jonathan Paton, in his official capacity as
9 Treasurer, violated 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 110.3(d) by using non-
10 federal funds to pay for expenditures in connection with an election for federal office,
11 thereby transferring state campaign assets to Paton for Congress and Jeffrey John Hill, in
12 his official capacity as Treasurer.

13 4. Jonathan Paton for Congress and Jeffrey John Hill in his official
14 capacity as Treasurer, received prohibited in-kind contributions and transfers of assets
15 from Jonathan Paton and Paton for Senate and Jonathan Paton, in his official capacity as
16 Treasurer, in violation of 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 110.3(d).

17 VI. ~~Respondents~~ will ~~cease~~ and desist from violating 2 U.S.C. § 441i(e)(1)(A)
18 and 11 C.F.R. § 110.3(d). Jonathan Paton will ~~cease~~ and desist from violating 2 U.S.C.
19 § 432(e)(1).

20 VII. Respondents will pay a civil penalty of One Thousand Eight Hundred
21 Dollars (\$1,800), pursuant to 2 U.S.C. § 437g(a)(5)(A).

22 VIII. The Commission, on request of anyone filing a complaint under
23 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 thirty (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:

Christopher Hughey
Acting General Counsel

BY: Kathleen M. Guith
Kathleen M. Guith
Acting Associate General Counsel
for Enforcement

1-4-11
Date

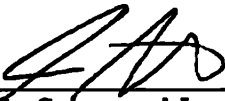
FOR THE RESPONDENTS:

Benjamin L. Ginsberg
Benjamin L. Ginsberg
as Counsel for Jonathan Paton


Dec. 13, 2010
Date

MUR 6267
Paton Conciliation Agreement

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Paton for Senate and Jonathan Paton
in his official capacity as Treasurer

Dec. 7, 2010
Date


Jonathan Paton for Congress and
Jeffrey John Hill in his official capacity
as Treasurer

12-7-10
Date

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