



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: The Commission

FROM: Charles Kitcher
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DATE: January 20, 2023

SUBJECT: MUR 7796 (Buzz Patterson for Congress, *et al.*)

This Office circulated a post-investigation Second General Counsel's Report in this matter on November 8, 2022, which has been placed on the January 26, 2023 Executive Session Agenda. The Second General Counsel's Report recommends that the Commission find no reason to believe that Respondents Robert "Buzz" Patterson and Buzz Patterson for Congress and Louis G. Baglietto in his official capacity as treasurer, violated 52 U.S.C. 30114(b)(1) by converting campaign funds to personal use, but does not include a Factual and Legal Analysis for that finding.

We are submitting this memorandum to add an additional recommendation that the Commission approve the attached Factual and Legal Analysis as to the personal use allegations. This additional recommendation does not alter any of the other recommendations or analysis in the Second General Counsel's Report.

Recommendation:

1. Approve the proposed Factual and Legal Analysis for Robert "Buzz" Patterson and Buzz Patterson for Congress and Louis G. Baglietto in his official capacity as treasurer

Attachment: Factual and Legal Analysis for Patterson and Buzz Patterson for Congress

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENTS:** Robert “Buzz” Patterson MUR 7796
 4 Buzz Patterson for Congress and Louis G.
 5 Baglietto in his official capacity as treasurer
 6
 7

8 **I. INTRODUCTION**

9 The Complaint alleges, among other things, that 2020 California 7th Congressional
 10 District candidate Robert “Buzz” Patterson and his authorized campaign committee, Buzz
 11 Patterson for Congress and Louis G. Baglietto in his official capacity as treasurer (“the
 12 Committee”) converted campaign funds to personal use by having the Committee pay Patterson
 13 a salary to which he was not entitled.

14 In the course of investigating the other allegations, the Commission obtained information
 15 as to the salary payments made to Patterson. Based on this information, the Commission finds
 16 no reason to believe that Patterson and the Committee violated 52 U.S.C. § 30114(b)(1) by
 17 converting campaign funds to personal use in the form of salary payments to the candidate.

18 **II. FACTUAL BACKGROUND**

19 Buzz Patterson was a 2020 candidate for U.S. Congress in California’s 7th Congressional
 20 District. Buzz Patterson for Congress (the “Patterson Committee”) is Patterson’s authorized
 21 committee, and Louis G. Baglietto is the Patterson Committee treasurer.¹

¹ Buzz Patterson Statement of Candidacy (July 1, 2019); Buzz Patterson for Congress Amended Statement of Organization (Feb. 4, 2020). Patterson came in second in the Mar. 3, 2020 Bipartisan Primary, but lost the Nov. 3, 2020 general election. Statement of Primary Vote at 16, CALIFORNIA SECRETARY OF STATE (Mar. 3, 2020), <https://elections.cdn.sos.ca.gov/sov/2020-primary/sov/complete-sov.pdf>; Statement of General Election Vote at 25, CALIFORNIA SECRETARY OF STATE (Nov. 3, 2020), <https://elections.cdn.sos.ca.gov/sov/2020-general/sov/complete-sov.pdf>.

1 The Complaint alleges, among other things, that Patterson converted campaign funds to
2 personal use by paying Patterson a salary, which was greater than the salary he received the
3 previous year.² In support of this allegation, the Complaint cites a press article citing a breach of
4 contract lawsuit filed by a campaign consultant, which alleges that instead of paying the
5 consultant, the Patterson Committee used its funds to pay Patterson a candidate salary.³ The
6 Complaint pairs the underlying allegation in the lawsuit with Patterson’s 2019 Financial
7 Disclosure Report filed with the Clerk of the United States House of Representatives, which did
8 not disclose any earned income in 2019, and concludes that the salary being paid to Patterson
9 was a prohibited personal use because it exceeded his income from the prior year.⁴

10 During the investigation as to other allegations, the Committee provided the
11 Commission’s Office of General Counsel (“OGC”) with its bank records and reimbursement
12 information for expenses paid for by Patterson. Patterson also provided his personal financial
13 information including his tax returns to establish his salary. During the investigation, OGC held
14 several conference calls with both Baglietto and Patterson in which they spoke at length about
15 how the Committee operated. Patterson explained that he did receive a small number of stipends
16 from the Committee, but could not recall the exact amounts of the stipends nor did he maintain
17 records as to the exact amounts.⁵ Patterson stated that he believes that he received \$5,000 in

² Compl. at 2.

³ *Id.* (citing Brooke Staggs, *Medical Importer Launched By GOP Consultants Prompts Complaints, Federal Investigation*, ORANGE COUNTY REGISTER (May 7, 2020), <https://www.oregister.com/2020/05/07/medical-importer-launched-by-gop-consultants-prompts-complaints-federal-investigation> (citing the lawsuit which “claims Patterson owes him nearly \$50,000 in unpaid fees and also accuses Patterson of trying to pay himself out of campaign funds and of having issues with alcohol.”)).

⁴ Compl., Ex. 5.

⁵ Email from Buzz Patterson to Richard Weiss Attorney, FEC (May 8, 2022, 6:21 PM EST).

1 stipends.⁶ Patterson kept a log of all reimbursable campaign expenses that he provided during
2 the investigation, which totals \$56,719.08. This log consisted of reimbursements for travel and
3 meals for campaign staff and volunteers.⁷ According to the Committee bank records, Baglietto
4 disbursed \$68,227.08 to Patterson in 2020 and 2021.⁸ This leaves an \$11,508 discrepancy
5 between the amount the bank records show disbursed to Patterson and the amount of
6 reimbursements on Patterson’s log. While Patterson states that he believes that the stipends were
7 less than \$11,508, there is no documentation to determine what exactly that \$11,508 was spent
8 on.⁹ Therefore, the stipends, at most, could have totaled \$11,508. These stipend disbursements
9 occurred after the filing deadline for access to the primary election ballot in California.
10 Although Patterson did not disclose any income on his Financial Disclosure Report, he provided
11 documentation that he received \$16,750 in earned income in 2019 from book royalties, book
12 sales, and appearances on Facebook and speaking events.¹⁰

13 III. LEGAL ANALYSIS

14 The Act prohibits any person from converting campaign funds to personal use, defining
15 “personal use” as using funds “to fulfill any commitment, obligation, or expense of a person that
16 would exist irrespective of the candidate’s election campaign or individual’s duties as a holder of
17 Federal office.”¹¹ The Act and the Commission’s regulation enumerate certain expenses that are

⁶ *Id.* Patterson provided some personal documentation showing \$5,000 in stipends in 2020, but did not have any clear explanation for the remaining \$6,508 that was unaccounted for on his list of campaign expenses. *Id.*

⁷ *Id.*; *see also* 52 U.S.C. § 30114(b); *see also* 11 C.F.R. § 113(g).

⁸ Of the \$11,508, \$9,763.12 was disbursed in 2020 and \$1,744.88 was disbursed in 2021. *Id.*

⁹ Email from Buzz Patterson to Richard Weiss Attorney, FEC (May 8, 2022, 6:21 PM EST).

¹⁰ Buzz Patterson, 2019 Income Tax Return Schedule C.

¹¹ 52 U.S.C. § 30114(b); *accord* 11 C.F.R. § 113(g).

1 considered *per se* “personal use” and thus are prohibited, including salary payments to a
2 candidate that do not meet specified criteria.¹²

3 A candidate’s principal campaign committee may pay a salary to the candidate that will
4 not constitute personal use of campaign funds so long as it does not exceed the lesser of the
5 minimum salary paid to a Federal officeholder holding the Federal office that the candidate seeks
6 or the earned income that the candidate received during the year prior to becoming a candidate.¹³
7 Any earned income that a candidate receives from salaries or wages from any other source,
8 however, shall count against the foregoing limit of the minimum salary paid to a federal
9 officeholder holding the seat sought by the candidate.¹⁴ Moreover, a committee shall not pay a
10 salary to a candidate before the filing deadline for access to the primary election ballot for the
11 federal office that the candidate seeks, as determined by state law.¹⁵ The payment of salary to
12 candidates that do not meet these conditions is considered *per se* personal use.¹⁶

13 The Complaint alleges that the Committee paid Patterson a salary and that it exceeded the
14 permissible amount.¹⁷ During the investigation, Patterson provided information from his 2019
15 tax returns demonstrating that his earned wages from 2019 (\$16,750) exceeded the stipends he
16 received from the Committee (at most \$9,763.12 in 2020 and \$1,744.88 in 2021.)¹⁸ Because

¹² 52 U.S.C. § 30114(b)(2); 11 C.F.R. § 113.1(g)(1)(i)(I).

¹³ 11 C.F.R. § 113.1(g)(1)(i)(I).

¹⁴ *Id.*

¹⁵ *Id.* If the candidate wins the primary election, his or her principal campaign committee may pay him or her a salary from campaign funds through the date of the general election, up to and including the date of any general election runoff. If the candidate loses the primary, withdraws from the race, or otherwise ceases to be a candidate, no salary payments may be paid beyond the date he or she is no longer a candidate. *Id.*

¹⁶ *Id.*; see also Disclaimers, Fraudulent Solicitation, Civil Penalties, and Personal Use of Campaign Funds; Final Rule, 67 Fed. Reg. 76,962, 76,972 (Dec. 13, 2002).

¹⁷ Compl. at 2; First General Counsel’s Rpt. at 3-4.

¹⁸ As of OGC’s last correspondence with Patterson he has not filed his 2020 taxes yet and therefore does not have documentation to share regarding his 2020 income.

1 Patterson’s earned income from the prior year exceeded the amount of the stipends paid to him
2 during the campaign and because those stipends were paid after the filing deadline for the
3 California primary ballot and prior to the general election, the Commission concludes that the
4 salary payments were permissible.

5 Therefore, the Commission finds no reason to believe that Patterson and the Committee
6 violated 52 U.S.C. § 30114(b)(1) by converting campaign funds to personal use in the form of
7 salary payments to the candidate.