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2016 SEP 14 PM 1:46

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OFFICE OF GENERAL  
COUNSEL

September 9, 2016

Via U.S. Mail and Email to [jjordan@fec.gov](mailto:jjordan@fec.gov) & [drawls@fec.gov](mailto:drawls@fec.gov)

Federal Election Commission  
Office of Complaints Examination & Legal Administration  
Attn: Donna Rawls, Paralegal  
999 E Street, N. W.  
Washington, DC 20463

Re: MUR 7109

Dear Mr. Jordan:

I am writing on behalf of Anthony Portantino, the Anthony Portantino Congressional Exploratory Committee (the "Federal Committee"); and Anthony Portantino for Senate 2016 (the "State Committee") in regards the above-referenced matter. We appreciate the opportunity to provide this preliminary response to the complaint, for we believe the transactions at issue can be easily explained and the complaint swiftly dismissed.

The complaint alleges that Mr. Portantino and his campaign committees violated 11 CFR 110.3(d) by transferring \$275,000 from his State Committee back into his Federal Committee. Although the complaint acknowledges that these "funds were raised originally under the federal limits and source prohibitions," it alleges — without any factual support — that "Anthony Portantino has not segregated the funds." (Complaint, p. 3, ¶ 4; see *id.*, p. 2, ¶ 3 ["[t]he state and federal funds were co-mingled [sic]").) As is explained below, *this is simply incorrect*: there was never any commingling of the funds from the Federal Committee with any funds from the State Committee. Accordingly, the present transaction is covered by the principles discussed in Advisory Opinion 2002-08, which concluded that federal funds that had been loaned or transferred to a state committee could be transferred back to the federal committee *without violating 11 CFR 110.3(d)* as long as those funds had not been commingled with the state committee's funds. As set forth below, that is *exactly what occurred here*.

On June 30, 2015, Mr. Portantino's Federal Committee transferred \$275,000 to his State Committee as a loan. As the complaint notes, this transfer of funds was explicitly reported on his Federal Committee report as a "loan." (See FEC July 15, 2015 Quarterly Report, pp. 6-8 [Schedules B & C].) Contrary to the allegations in the complaint, the transaction was originally reported as a "loan" on Mr. Portantino's State Committee report, as well. (See Anthony

Jeff S. Jordan, Esq.  
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September 9, 2016  
Page 2

Portantino For Senate 2016, Form 460 (July 31, 2015), pp. 1, 3, & 367 [enclosed with this letter].) However, in order to ensure compliance with California's own campaign contribution limitations, the California Fair Political Practices Commission (FPPC) requested the State Committee to break down the \$275,000 transfer into numerous individual within-the-limit contributions, attributing each of those contributions to an identified donor to the Federal Committee, and in order to prevent the appearance of "double-counting" the same \$275,000 as both the sum of those individual contributions and as a lump-sum transfer/loan, the FPPC requested that the State Committee delete its original reporting of the \$275,000 as a "loan." The State Committee, per the FPPC's request, therefore filed an amendment to its July 31, 2015 Form 460 deleting Schedules B's reporting of the \$275,000 transfer as a "loan." (See Anthony Portantino For Senate 2016, Amended Form 460 (filed February 29, 2016), pp. 1 & 3, noting "Removed unnecessary reporting on Schedules A, B and I" [also enclosed with this letter].)

The funds that were used for this \$275,000 loan/transfer were not cash deposits, but were securities held in an Edward Jones brokerage account in the name of the Federal Committee. Because Mr. Portantino was not certain at the time the transfer/loan was made that his State Committee would actually need to use the funds for his state campaign, and because he did not want to needlessly incur capital gains and pay taxes on the sale and conversion of those securities into cash, the securities that constituted the \$275,000 in value were never actually sold nor cashed. Instead, the ownership of the securities at the Edward Jones brokerage was merely changed from the Federal Committee to the State Committee. Thus, contrary to the allegations in the complaint, the \$275,000 in funds were at all times segregated from the cash funds in the State Committee's bank account, and there was absolutely no commingling of federal and state funds.

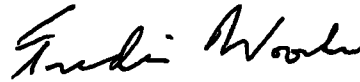
As it turned out, Mr. Portantino's principal primary opponent in his state election dropped out of the race and he did not in fact need to use any of the \$275,000 that the Federal Committee had loaned the State Committee for his state primary election. Ownership of those very same securities was therefore transferred back to the Federal Committee, and the Federal Committee reported on its April 15, 2016 Quarterly Report that the loan was properly repaid by the State Committee. (See FEC April 2016 Quarterly Report, p. 8 [Schedule C].)

In essence, although the "ownership" of the \$275,000 in securities changed from the Federal Committee to the State Committee and back again, these were entirely "paper transactions," ensuring that there was no commingling of those federal funds with Mr. Portantino's state funds. Nor were any of the federal funds ever used in connection with Mr. Portantino's state election. As in Advisory Opinion 2002-08, "the concerns that were articulated in the Explanation and Justification [for 11 CFR 110.3(d)] in regard to transfers from State to Federal committees are wholly absent in this situation," and those funds "may be redeposited into the Federal committee's account without violating 11 CFR 110.3(d)." (AO 2002-08, pp. 2-3.)

Jeff S. Jordan, Esq.  
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September 9, 2016  
Page 3

We trust that this explanation of the transactions at issue makes clear that there is no merit to the complaint in MUR 7109 and that the complaint should be summarily dismissed without further action. If we can be of any further assistance, please let me know.

Sincerely,



Fredric D. Woocher

Enclosures

1704444001

# Recipient Committee Campaign Statement

(Government Code Sections 84200-84216.5)

Type or print in ink.

COVER PAGE

CALIFORNIA  
2001/02  
FORM

Date Stamp

Page 1 of 398

For Official Use Only

Date of election if applicable:  
(Month, Day, Year)

Statement covers period

from 01/01/2015

through 06/30/2015

SEE INSTRUCTIONS ON REVERSE

## 1. Type of Recipient Committee: All Committees - Complete Parts 1,2,3, and 4.

☒ Officeholder, Candidate Controlled Committee

☒ State Candidate Election Committee

☐ Recall

(Also Complete Part 5.)

☐ General Purpose Committee

☐ Sponsored

☐ Small Contributor Committee

☐ Political Party/Central Committee

☐ Ballot Measure Committee

☐ Primary Formed

☐ Controlled

☐ Sponsored

(Also Complete Part 6.)

☐ Primary Formed Candidate/

Officeholder Committee

(Also Complete Part 7.)

## 2. Type of Statement:

☐ Pre-election Statement

☒ Semi-annual Statement

☐ Termination Statement

☐ Amendment (Explain below)

☐ Quarterly Statement

☐ Special Odd-Year Report

☐ Supplemental Preelection

☐ Statement - Attach Form 495

## 3. Committee Information

I.D. NUMBER

1334175

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE)

ANTHONY PORTANTINO FOR SENATE 2016

## Treasurer(s)

NAME OF TREASURER

DAVID L. GOULD

STREET ADDRESS (NO P.O. BOX)

MAILING ADDRESS

CITY

Long Beach

STATE

CA

ZIP CODE

90802

AREA CODE/PHONE

(213)489-4792

CITY

Long Beach

STATE

CA

ZIP CODE

90802

AREA CODE/PHONE

213 489-4792

NAME OF ASSISTANT TREASURER, IF ANY

INGRID ORELLANA

MAILING ADDRESS

AREA CODE/PHONE

OPTIONAL: FAX/E-MAIL ADDRESS

213 489-4818 / dlgoald@gouldorellana.com

CITY

Long Beach

STATE

CA

ZIP CODE

90802

AREA CODE/PHONE

213 489-4792

OPTIONAL: FAX/E-MAIL ADDRESS

## 4. Verification

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 07/31/2015 By David L. Gould

SIGNATURE OF TREASURER OR ASSISTANT TREASURER

Anthony Portantino

DATE

07/31/2015

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, STATE MEASURE PROponent OR RESPONSIBLE OFFICER OF SPONSOR

DATE

By

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, STATE MEASURE PROponent

DATE

By

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, STATE MEASURE PROponent

DATE

By

SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, STATE MEASURE PROponent

FPPC Form 460 (June 01)  
FPPC Toll-Free Helpline: 866/ASK-FPPC  
State of California

# Campaign Disclosure Statement Summary Page

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SUMMARY PAGE

Statement covers period

from 01/01/2015

through 06/30/2015

CALIFORNIA  
FORM 460

Page 3 of 398

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

ANTHONY PORTANTINO FOR SENATE 2016

I.D. NUMBER

1334175

## Contributions Received

1. Monetary Contributions ..... Schedule A, Line 3
2. Loans Received ..... Schedule B, Line 7
3. SUBTOTAL CASH CONTRIBUTIONS ..... Add Lines 1 + 2
4. Nonmonetary Contributions ..... Schedule C, Line 3
5. TOTAL CONTRIBUTIONS RECEIVED ..... Add Lines 3 + 4

Column A  
TOTAL THIS PERIOD  
(FROM ATTACHED SCHEDULES)

\$85,720.00  
\$275,000.00  
\$360,720.00  
\$1,400.00  
\$362,120.00

Column B  
CALENDAR YEAR  
TOTAL TO DATE

\$85,720.00  
\$275,000.00  
\$360,720.00  
\$1,400.00  
\$362,120.00

## Calendar Year Summary for Candidates Running in Both the State Primary and General Elections

20. Contribution Received ..... 1/1 through 6/30 ..... 7/1 to Date .....  
\$0.00 ..... \$0.00  
21. Expenditures Made ..... \$0.00 ..... \$0.00

## Expenditures Made

6. Payments Made ..... Schedule E, Line 4
7. Loans Made ..... Schedule H, Line 7
8. SUBTOTAL CASH PAYMENTS ..... Add Lines 6 + 7
9. Accrued Expenses (Unpaid Bills) ..... Schedule F, Line 3
10. Nonmonetary Adjustment ..... Schedule C, Line 3
11. TOTAL EXPENDITURES MADE ..... Add Lines 8 + 9 + 10

\$52,868.05  
\$0.00  
\$52,868.05  
(\$9,770.03)  
\$1,400.00  
\$44,498.02

\$52,868.05

\$0.00

\$52,868.05

(\$9,770.03)

\$1,400.00

\$44,498.02

## Expenditure Limit Summary for State Candidates

22. Cumulative Expenditures Made\*  
(If Subject to Voluntary Expenditure Limit)

Date of Election (mm/dd/yy) ..... Total to Date .....

## Current Cash Statement

12. Beginning Cash Balance ..... Previous Summary Page, Line 16
13. Cash Receipts ..... Column A, Line 3 above
14. Miscellaneous Increases to Cash ..... Schedule I, Line 4
15. Cash Payments ..... Column A, Line 8 above
16. ENDING CASH BALANCE ..... Add Lines 12 + 13 + 14, then subtract Line 15  
If this is a termination statement, Line 16 must be zero.

\$549,812.84  
\$360,720.00  
\$75,000.00  
\$52,868.05  
\$932,664.79

To calculate Column B, add amounts in Column A to the corresponding amounts from Column B of your last report. Some amounts in Column A may be negative figures that should be subtracted from previous period amounts. If this is the first report being filed for this calendar year, only carry over the amounts from Lines 2, 7, and 9 (if any).

## LOAN GUARANTEES RECEIVED

Schedule B, Part 2

\$0.00

## Cash Equivalents and Outstanding Debts

18. Cash Equivalents ..... See instructions on reverse
19. Outstanding Debts ..... Add Line 2 + Line 9 in Column B above

\$0.00  
\$276,981.54

\*Since January 1, 2001, amounts in this section may be different from amounts reported in Column B.

FPPC Form 460 (June/01)  
FPPC Toll-Free Helpline: 866/ASK-FPPC

# Schedule B - Part 1 Loans Received

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SCHEDULE B - PART 1

CALIFORNIA  
FORM **460**

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER  
ANTHONY PORTANTINO FOR SENATE 2016

Statement covers period  
from 01/01/2015  
through 06/30/2015

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I.D. NUMBER  
1334175

FULL NAME, STREET ADDRESS AND ZIP CODE OF LENDER (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	(a) OUTSTANDING BALANCE BEGINNING THIS PERIOD	(b) AMOUNT RECEIVED THIS PERIOD	(c) AMOUNT PAID OR FORGIVEN THIS PERIOD*	(d) OUTSTANDING BALANCE AT CLOSE OF THIS PERIOD	(e) INTEREST PAID THIS PERIOD	(f) ORIGINAL AMOUNT OF LOAN	(g) CUMULATIVE CONTRIBUTIONS TO DATE
Anthony Portantino Congressional Exploratory Committee Long Beach, CA 90802 Committee ID: C00479188 Memo Reference: PAY1486			\$275,000.00	<input type="checkbox"/> PAID <input type="checkbox"/> FORGIVEN	\$275,000.00	% RATE	\$275,000.00 6/30/2015 DATE INCURRED	\$275,000.00 PER ELECTION** 2016P: \$275,000.00 CALENDAR YEAR
<input type="checkbox"/> IND <input checked="" type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				<input type="checkbox"/> PAID <input type="checkbox"/> FORGIVEN		% RATE		
<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				<input type="checkbox"/> PAID <input type="checkbox"/> FORGIVEN		% RATE		
<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				<input type="checkbox"/> PAID <input type="checkbox"/> FORGIVEN		% RATE		

## SUBTOTALS

\$275,000.00

\$275,000.00

\$275,000.00

## Schedule B Summary

- Loans received this period.  
(Total Column (b) plus unitemized loans less than \$100.)
- Loans paid or forgiven this period  
(Total Column (c) plus loans under \$100 paid or forgiven.)  
(Include loans paid by a third party that are also itemized on Schedule A.)
- Net change this period. (Subtract Line 2 from Line 1.)  
Enter the net here and on the Summary Page, Column A, Line 2.

(Enter (e) on  
Schedule E, Line 3)

\$275,000.00

\$0.00

Net \$275,000.00  
(may be a negative number)

\* Amounts forgiven or paid by  
another party also must be  
reported on Schedule A.

\*\* If required.

Contributor Codes

IND-Individual COM-Recipient Committee (other than PTY or SCC)

OTH-Other

PTY-Political Party

SCC-Small Contributor Committee

FPPC Form 460 (June/01)  
FPPC Toll-Free Helpline: 866/ASK-FPPC

# Recipient Committee Campaign Statement

(Government Code Sections 84200-84216.5)

SEE INSTRUCTIONS ON REVERSE

Type or print in ink.

Statement covers period  
from 01/01/2015  
through 06/30/2015

Date of election if applicable:  
(Month, Day, Year)

06/07/2016

Date Stamp

CALIFORNIA  
2001/02  
FORM

COVER PAGE

460

Page 1 of 489

For Official Use Only

## 1. Type of Recipient Committee: All Committees - Complete Parts 1,2,3, and 4.

☒ Officerholder, Candidate Controlled Committee

☒ State Candidate Election Committee

☐ Recall

(Also Complete Part 5.)

☐ General Purpose Committee

☐ Sponsored

☐ Small Contributor Committee

☐ Political Party/Central Committee

☐ Ballot Measure Committee

☐ Primary Formed

☐ Controlled

☐ Sponsored

(Also Complete Part 6.)

☐ Primary Formed Candidate/Officerholder Committee

(Also Complete Part 7.)

## 2. Type of Statement:

☐ Pre-election Statement

☒ Semi-annual Statement

☐ Termination Statement

☒ Amendment (Explain below)

Removed unnecessary reporting on Schedules A, B and I

☐ Quarterly Statement

☐ Special Odd-Year Report

☐ Supplemental Preelection

☐ Statement - Attach Form 495

## 3. Committee Information

I.D. NUMBER

1334175

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE)

ANTHONY PORTANTINO FOR SENATE 2016

## Treasurer(s)

NAME OF TREASURER

DAVID L. GOULD

STREET ADDRESS (NO P.O. BOX)

MAILING ADDRESS

CITY

Long Beach

STATE

CA

ZIP CODE

90802

AREA CODE/PHONE

(213)489-4792

CITY

Long Beach

STATE

CA

ZIP CODE

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AREA CODE/PHONE

213 489-4792

NAME OF ASSISTANT TREASURER, IF ANY

INGRID ORELLANA

MAILING ADDRESS

MAILING ADDRESS

STATE

CA

ZIP CODE

90802

OPTIONAL: FAX/MAIL ADDRESS

213 489-4818 / dlgoald@gouldorellana.com

AREA CODE/PHONE

213 489-4792

CITY

Long Beach

STATE

CA

ZIP CODE

90802

OPTIONAL: FAX/MAIL ADDRESS

OPTIONAL: FAX/MAIL ADDRESS

## 4. Verification

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 02/29/2016 By David L. Gould

DATE SIGNATURE OF TREASURER OR ASSISTANT TREASURER

Executed on 02/29/2016 By Anthony Portantino

DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, STATE MEASURE PROponent OR RESPONSIBLE OFFICER OF SPONSOR

Executed on By

DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, STATE MEASURE PROponent

Executed on By

DATE SIGNATURE OF CONTROLLING OFFICEHOLDER, CANDIDATE, STATE MEASURE PROponent

FPPC Form 460 (June 01)  
FPPC Toll-Free Helpline: 866/ASK-FPPC  
State of California

Campaign Disclosure Statement  
Summary Page

Type or print in ink.  
Amounts may be rounded  
to whole dollars.

SUMMARY PAGE

Statement covers period  
from 01/01/2015  
through 06/30/2015

Page 3 of 489

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

ANTHONY PORTANTINO FOR SENATE 2016

I.D. NUMBER

1334175

Contributions Received

	Column A TOTAL THIS PERIOD (FROM ATTACHED SCHEDULES)	Column B CALENDAR YEAR TOTAL TO DATE
1. Monetary Contributions	Schedule A, Line 3 \$360,719.98	\$360,719.98
2. Loans Received	Schedule B, Line 7 \$0.00	\$0.00
3. SUBTOTAL CASH CONTRIBUTIONS	Add Lines 1 + 2 \$360,719.98	\$360,719.98
4. Nonmonetary Contributions	Schedule C, Line 3 \$1,400.00	\$1,400.00
5. TOTAL CONTRIBUTIONS RECEIVED	Add Lines 3 + 4 \$362,119.98	\$362,119.98

Expenditures Made

6. Payments Made	Schedule E, Line 4 \$52,868.05	\$52,868.05
7. Loans Made	Schedule H, Line 7 \$0.00	\$0.00
8. SUBTOTAL CASH PAYMENTS	Add Lines 6 + 7 \$52,868.05	\$52,868.05
9. Accrued Expenses (Unpaid Bills)	Schedule F, Line 3 (\$9,770.03)	\$1,981.54
10. Nonmonetary Adjustment	Schedule G, Line 3 \$1,400.00	\$1,400.00
11. TOTAL EXPENDITURES MADE	Add Lines 8 + 9 + 10 \$44,498.02	\$56,249.59

Current Cash Statement

12. Beginning Cash Balance	Previous Summary Page, Line 16 \$549,812.84
13. Cash Receipts	Column A, Line 3 above \$360,719.98
14. Miscellaneous Increases to Cash	Schedule I, Line 4 \$0.00
15. Cash Payments	Column A, Line 8 above \$52,868.05
16. ENDING CASH BALANCE	Add Lines 12 + 13 + 14, then subtract Line 15 \$857,664.77
If this is a termination statement, Line 16 must be zero.	

17. LOAN GUARANTEES RECEIVED

Schedule B, Part 2	\$0.00
--------------------	--------

Cash Equivalents and Outstanding Debts

18. Cash Equivalents	See instructions on reverse \$0.00
19. Outstanding Debts	Add Line 2 + Line 9 in Column B above \$1,981.54

Calendar Year Summary for Candidates  
Running in Both the State Primary and  
General Elections

20. Contribution Received	1/1 through 6/30 \$0.00	7/1 to Date \$0.00
21. Expenditures Made	\$0.00	\$0.00

Expenditure Limit Summary for State  
Candidates

22. Cumulative Expenditures Made\*  
(If Subject to Voluntary Expenditure Limit)

Date of Election (mm/dd/yy)

Total to Date

To calculate Column B, add amounts in Column A to the corresponding amounts from Column B of your last report. Some amounts in Column A may be negative figures that should be subtracted from previous period amounts. If this is the first report being filed for this calendar year, only carry over the amounts from Lines 2, 7, and 9 (if any).

\*Since January 1, 2001, amounts in this section may be different from amounts reported in Column B.

FPPC Form 460 (June/01)  
FPPC Toll-Free Helpline: 866/ASK-FPPC