



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Rafael Lantigua, Treasurer
Espaillat for Congress
210 Sherman Avenue, Suite B
New York, New York 10034

DEC 16 2015

RE: MUR 6956
Espaillat for Congress and Rafael Lantigua
in his official capacity as treasurer

Dear Mr. Lantigua:

On December 9, 2015, the Federal Election Commission accepted the signed conciliation agreement and \$5,000 civil penalty submitted on your behalf in settlement of a violation of 52 U.S.C. § 30116(f), a provision of the Federal Election Campaign Act of 1971, as amended. 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) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 694-1548.

Sincerely,

A handwritten signature in cursive script, appearing to read "Elena Paoli".

Elena Paoli
Attorney

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Espaillat for Congress) MUR 6956
and Rafael Lantigua in his official)
capacity as treasurer)

CONCILIATION AGREEMENT

15044384768
This matter was initiated by the Federal Election Commission (the "Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Espaillat for Congress and Rafael Lantigua in his official capacity as treasurer, (the "Committee" or "Respondents") violated 52 U.S.C. § 30116(f), a provision of the Federal Election Campaign Act of 1971, as amended, (the "Act").

NOW, THEREFORE, the Commission and 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 Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(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:

1. The Committee is the principal campaign committee for Adriano Espaillat, a candidate for United States Congress during the 2014 election cycle.
2. Espaillat lost the primary election on June 24, 2014; thus, he did not participate in the general election.
3. Rafael Lantigua is the treasurer of the Committee.
4. Under the Act, an individual may not make a contribution to a candidate with respect to any election in excess of the legal limit, which was \$2,600 per election during the 2014 election cycle. See 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b)(1). A primary election and a general election are each considered a separate "election" under the Act, and the contribution limits are applied separately with respect to each election. See 52 U.S.C. §§ 30101(1)(A) and 30116(a)(6); 11 C.F.R. §§ 100.2 and 110.1(j). Candidates and political committees are prohibited from knowingly accepting excessive contributions. See 52 U.S.C. § 30116(f).
5. The Commission's regulations permit a candidate's committee to receive contributions for the general election prior to the primary election. See 11 C.F.R. § 102.9(e)(1). The committee must use an acceptable accounting method to distinguish between primary and general election contributions. *Id.* The committee's records must demonstrate that prior to the primary election, the committee's recorded cash on hand was at all times equal to or in excess of the sum of general election contributions received less the sum of general election disbursements made. See 11 C.F.R. § 102.9(e)(2).
6. If, however, the candidate does not become a candidate in the general election, the committee must: (1) refund the contributions designated for the general election; (2) redesignate such contributions in accordance with 11 C.F.R. §§ 110.1(b)(5) or 110.2(b)(5); or

(3) reattribute such contributions in accordance with 11 C.F.R. § 110.1(k)(3). *See* 11 C.F.R. § 102.9(e)(3). The committee must do so within 60 days of the date that the committee has actual notice of the need to redesignate, reattribute, or refund the contributions, such as the date the candidate loses the primary.

7. Redesignation of general election contributions may only occur to the extent that the amount redesignated does not exceed the contributor's contribution limit for the primary and the amounts redesignated do not exceed the net debts outstanding from the primary. *See* 11 C.F.R. §§ 110.1(b)(5)(iii) and (b)(3)(i), 110.2(b)(5)(iii) and (b)(3)(i). Likewise, reattribution of a general election contribution may only occur to the extent that such attribution does not exceed the contributor's contribution limits. *See* 11 C.F.R. § 110.1(k)(3)(ii)(B)(1).

8. The Committee accepted excessive primary election contributions totaling \$15,790 that were not timely redesignated, reattributed, or refunded.

9. The Committee accepted contributions totaling \$22,550 that were designated for the 2014 general election but were not refunded within 60 days after the candidate's June 24, 2014, loss in the primary.

10. Since being notified of this matter, the Committee has refunded all of the contributions at issue, totaling \$38,340.

V. Respondents violated 52 U.S.C. § 30116(f) by failing to timely redesignate, reattribute, or refund primary election and general election contributions, which resulted in Respondents accepting excessive contributions.

VI. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Five Thousand Dollars (\$5,000), pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondents will cease and desist from violating 52 U.S.C. § 30116(f).

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(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. 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.

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:

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

12-17-15
Date

FOR THE RESPONDENTS:

Rafael Lantigua
Rafael Lantigua
Treasurer, Espaillat for Congress

10-05-15
Date