



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

NOV - 5 2015

Samuel K. Pate, Jr.
14805 Forest Road
Forest, VA 24551-3997

RE: MUR 6980

Dear Mr. Pate:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). On May 1, 2015, the Commission notified you that you were being referred to the Commission's Office of General Counsel for possible enforcement action under 52 U.S.C. § 30109. On October 27, 2015, the Commission found reason to believe that you knowingly and willfully violated 52 U.S.C. §§ 30102(b)(3) and 30114, provisions of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law.

If you are interested in engaging in pre-probable cause conciliation, please contact Tracey L. Ligon, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

On behalf of the Commission,



Ann M. Ravel
Chair

Enclosures
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Samuel K. Pate, Jr.

MUR: 6980

I. INTRODUCTION

This matter was generated based on information ascertained by the Federal Election Commission (the "Commission") in the normal course of carrying out its supervisory responsibilities. *See* 52 U.S.C. § 30109(a)(2). Based on this information, there is reason to believe that Samuel K. Pate, Jr., knowingly and willfully commingled campaign funds with personal funds and converted campaign funds to personal use in violation of 52 U.S.C. §§ 30102(b)(3) and 30114 of the Federal Election Campaign Act of 1971, as amended (the "Act").

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

On July 8, 2015, the United States Attorney for the Western District of Kentucky filed a criminal Information charging Pate with three counts of mail fraud based on his theft of funds from, among others, a number of federal political committee accounts.¹ According to the Information, Pate worked as a vendor for the McConnell Senate Committee (the "McConnell Committee"), the House Conservatives Fund ("HCF"), and David Vitter for U.S. Senate (the "Vitter Committee"). They contracted with him to process contributions received through direct mail and to maintain contributor records. The committees received contributions through the mail at their local offices, which they forwarded to Pate to process.

¹ *See* Information, *United States v. Pate*, No. 3:15-cr-74 ¶ 6 (W.D. Ky. July 8, 2015) ("Information").

Pate was required to deposit the donations into specifically designated accounts and prepare lists of contributors and amounts for the committees. The political committees would use those lists to file reports with the Commission. Pate maintained designated bank accounts at BB&T bank for the political committees, purportedly for the deposit of contributions. Pate had signature authority on the bank accounts and maintained records for all contributions.²

According to the Information, Pate routinely diverted funds from the committees' designated accounts and transferred funds from client accounts into other personal accounts that he controlled. Specifically, Pate misappropriated a total of \$588,954 in contributions intended for the three committees — \$118,294 from the McConnell Committee, \$30,614 from HCF, and \$440,046 from the Vitter Committee — and consequently knowingly causing them to file inaccurate reports with the Commission. According to the Information, among other things, Pate used the stolen and misappropriated funds to pay credit card bills, purchase vehicles and a condominium, decorate a residence, and pay family members and other general personal expenses.³

On August 10, 2015, Pate pleaded guilty to all three counts of the Information, admitting that he stole the contributions at issue beginning as early as August 2009 and continuing through November 2014.⁴ Pate also agreed to pay restitution, including a total of

² *Id.* ¶¶ 4-6.

³ *Id.* ¶¶ 7-9. According to the Information, Pate misappropriated funds from fifteen other entities, including other political committees. *Id.* ¶ 7.

⁴ Plea Agreement, *United States v. Pate*, No. 3:15-CR-74 (W.D. Ky. Aug. 10, 2015) ("Plea Agreement"). The Information indicates that Pate caused the McConnell Committee to file false reports from about October 2013 to November 2014, HCF from about August 2009 to November 2014, and the Vitter Committee from about June 2013 to November 2014. Information ¶ 9.

\$588,954 to the McConnell Committee, HCF, and the Vitter Committee, due on the date of sentencing.⁵ Pate is scheduled to be sentenced November 3, 2015.⁶

B. Legal Analysis

The Act prohibits any person from converting contributions to a federal candidate to personal use,⁷ and further requires that all funds of a political committee "be segregated from, and may not be commingled with, the personal funds of any individual."⁸ The Act prescribes additional monetary penalties for violations that are knowing and willful.⁹ A violation of the Act is knowing and willful if the "acts were committed with full knowledge of all the relevant facts and a recognition that the action is prohibited by law."¹⁰

Pate has admitted under oath that, with specific intent to defraud, he diverted funds totaling \$588,954 from the accounts of the three committee Respondents here or by transferring those funds from their accounts into personal accounts he controlled.¹¹ Pate used those funds to "pay general personal expense[s]," such as to pay credit card bills, to purchase vehicles and a condominium, to decorate a residence, and to pay family members.¹² Pate also

⁵ Plea Agreement ¶ 8.

⁶ See Order, *United States v. Pate*, No. 3:15-CR-74 (W.D. Ky. Aug. 11, 2015).

⁷ *Id.* § 30114(b)(1). A contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of federal office. *Id.* § 30114(b)(2).

⁸ *Id.* § 30102(b)(3).

⁹ See 2 U.S.C. §§ 437g(a)(5)(B), 437g(d).

¹⁰ 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

¹¹ Plea Agreement ¶ 3.

¹² See Information ¶ 8.

admits that he "divert[ed] client funds from their designated accounts or transferr[ed] funds from client accounts into other bank accounts that he controlled."¹³ He therefore illegally converted the funds of an authorized campaign committee to personal use.¹⁴ Further, Pate "transferred approximately \$237,100 in stolen funds to his personal American Express savings accounts."¹⁵ In so doing, he impermissibly commingled the "funds of a political committee . . . with[] the personal funds of any individual" in violation of the Act.¹⁶

Pate also appears to have knowingly and willfully violated the Act in undertaking the embezzlement activity in this matter. Specifically, that Pate sought to conceal his activities through the use of separate "ghost" accounts without his clients' knowledge, and operated for several years as a vendor specifically to federal political committees, together evidence that he acted in contravention of his known legal obligations.

For these reasons, there is reason to believe that Samuel K. Pate, Jr., knowingly and willfully violated 52 U.S.C. §§ 30102(b)(3) and 30114.

¹³ Plea Agreement ¶ 3.

¹⁴ 52 U.S.C. § 30114.

¹⁵ Information ¶ 8.

¹⁶ 52 U.S.C. § 30102(b)(3); see MUR 6526 (Cora Carper) (finding reason to believe that Respondent violated section 432(b)(3) (now 52 U.S.C. § 30102(b)(3)) where she deposited cash into personal accounts after cashing committee checks that she had issued to herself without authorization).

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