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July 19, 2010

Todd Lang
Executive Director
Citizens Clean Elections Commission
1616 West Adams, Suite 110
Phoenix, Arizona 85007

Re: Complaint Against Jonathan Paton

Dear Mr. Lang:

This is a formal request for the Citizens Clean Elections Commission (“Commission”) to examine the campaign finance reports for Jonathan Paton, former candidate for State Senate in District 30. Mr. Paton announced his resignation from the State Senate on January 17, 2010, and he filed as a candidate for the U.S. House of Representatives on January 20, 2010. After becoming a federal candidate, Mr. Paton reimbursed himself for \$8,350 in travel expenditures. In total, over the last two reporting periods, Mr. Paton has reimbursed himself for \$19,415.67 in travel expenses.¹

In Mr. Paton’s January 31st report, he lists \$11,065.67 in reimbursements to himself for travel—\$5,263.67 of which are listed as “other” and the remainder as mileage. The first reimbursement occurred on December 29, 2008 and the last on December 30, 2009. If Mr. Paton reimbursed himself at the highest permissible rate,

¹ Because Mr. Paton was no longer a state candidate, he had limited options in what he could do with his surplus campaign funds. He could retain the funds for a subsequent election, return the funds to the contributors, or donate the funds to a county, state or local political party, a charity, or a political committee. A.R.S. § 16-915.01(A). Surplus monies, however, could not be used or converted for the candidate’s personal use, though they can be used to repay a candidate loan. *Id.* § (B).

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44.5¢, that means Mr. Paton must have traveled nearly 24,867 miles for campaign-related purposes in one year.²

In Mr. Paton's June 30th report, he lists an additional \$8,350 in travel reimbursements, all of which are for mileage. The first reimbursement is dated February 2, 2010 and the last March 24, 2010. Again, if Mr. Paton reimbursed himself at the highest permissible rate, that means he must have traveled 18,764 miles between January 1 (the beginning date of the reporting period) and January 20 (the date on which Mr. Paton officially became a federal candidate). The only other operating expenses that the campaign reported in the June 30th report total \$522.50. That means that 94% of the campaign's expenses during that reporting period were to reimburse Mr. Paton for his mileage.

In total, between the last two campaign finance reports, Mr. Paton has reimbursed himself a total of \$19,415.67 for travel. That adds up to 43,631 miles in campaign-related travel in less than a year and a half.

A quick comparison to the mileage reimbursements for other legislators demonstrates how out of the ordinary Mr. Paton's travel reimbursements are. Our review of the campaign finance reports reveals that the person with a mileage reimbursement amount closest to Mr. Paton is Representative Nancy McLain, whose campaign reimbursed her for \$822 between January 1st and May 31st of this year. The person who replaced Mr. Paton in the state senate for District 30, Frank Antenori, who had been the State Representative for the same district before moving over to the senate, paid only \$291.25 in travel expenses, including \$182.11 in expenses labeled "office supplies, mileage, postage." He did not reimburse himself for any campaign-related travel. While it is certainly a candidate's choice to reimburse himself for campaign-related travel, Mr. Paton's reimbursements are so far out of the norm as to raise concerns.

The Commission's regulations require that a candidate who reimburses himself for travel must keep an itinerary of the trips, including the name and type of event attended,

² Mr. Paton, as a duly elected member of the State Senate, was entitled to, and we believe did receive, reimbursement for his travel between his home and the state capitol. A.R.S. § 41-1104(A). Thus, all of the travel reimbursement that Mr. Paton received during the last two reporting periods must have been only for campaign- or constituent-related travel.

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miles traveled, and reimbursement rate. Ariz. Admin. Code R2-20-109(G). I request that the Commission obtain Mr. Paton's travel log and verify that he has indeed traveled some 43,631 miles for legitimate, campaign-related purposes during the time period in which he reported the travel reimbursements.

The *Arizona Daily Star* reported that Mr. Paton tried to explain his high travel reimbursements by saying that the reimbursement amounts included in the June 30th report actually include travel expenses from the year before, not just the couple of weeks which his June 30th report covers. The *Arizona Daily Star* article is attached hereto. He further explained that he waited to reimburse himself for the \$8,350 in mileage because his campaign did not have sufficient funds before the end of 2009 to cover those expenses.

This explanation, however, falls short. Expenditures must be reported on the date an agreement to make the expenditure has been made. *Id.* (F). If the travel expenses were truly incurred during 2009, Mr. Paton was required to report them in the January 31st campaign finance report when the expenditures actually took place. Failing that, he must file an amended campaign finance report, properly reporting when those expenditures took place. *See id.* (C). Reporting the expenditures in the June 30th report indicates that those expenditures took place between January 1st and May 31st. If that is not in fact when the expenditures took place, Mr. Paton must file an amended report and properly indicate when the expenditures were made.

Further, Mr. Paton's statement to the media that he waited to reimburse himself for the travel until the spring of 2010 because his campaign did not previously have sufficient funds to cover such expenses is demonstrably false. In his January 31st report, Mr. Paton reported cash on hand of \$12,200.88. That is more than \$3,850 more than Mr. Paton reimbursed himself for travel in his June 30th report. Thus, at the very least, he had more than sufficient funds to reimburse himself for travel before the spring of 2010 in accordance with the Commission's regulations and may well have had sufficient funds throughout a good part of 2009.

Because Mr. Paton has violated the reporting requirements, he is subject to a civil penalty of \$100 per day for every day he was not in compliance with the law. A.R.S. § 16-942(B). If the Commission were to find that Mr. Paton did not properly document his travel expenses or that he was not entitled to such reimbursements, the Commission should order Mr. Paton to refund the reimbursement payments directly to the

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Commission and pay any additional penalties as the Commission sees fit in the interests of justice and protecting the integrity of the campaign finance system.

Please do not hesitate to contact me if I can be of any further assistance.

Very truly yours,



Rhonda L. Barnes

STATE OF ARIZONA)
)ss.
County of Maricopa)

Rhonda L. Barnes, being duly sworn, acknowledged the foregoing instrument was true and correct to the best of her knowledge before me this 19th day of July, 2010.





Notary Public

RLB/kdl
Enclosure

 Arizona Daily

Political notebook: Dems challenge Paton's mileage bookkeeping

Posted: Wednesday, July 14, 2010 12:00 am

The Democratic Congressional Campaign Committee is taking another shot at Republican Jonathan Paton, this time going after him for mileage he racked up before stepping down from his state Senate seat in February to run for Congress.

Paton, who is running for Congress in District 8, claimed more than \$8,000 in state travel reimbursement, according to his Senate campaign finance report filed to cover the time before he resigned.

The DCCC questioned whether the travel was really for Paton's congressional campaign, noting the \$8,000 would translate into more than 15,000 miles in two months.

Paton said he was paying himself back not just for travel in January and February, when the Legislature was in session, but for job-related mileage in 2009. He said he racked up the miles traveling talk to constituents door-to-door, especially in Green Valley. He would come back from Phoenix one or two times a week, he said. But he waited until this spring to request the money, he said, because until then his old Senate campaign fund was too broke to cover the expense.

Although the DCCC took umbrage with his bookkeeping, the state Clean Elections Commission and Secretary of State's Office, which are responsible for campaign finance reporting, said there is no problem. Both said it is OK to claim constituent-related expenses in a campaign fund if a senator doesn't have a special constituent account.

TEA FOR TWO

A new tea party is on the scene, but organizers of the Pima County Tea Party Patriots say they aren't necessarily offering a different flavor brew from the Tucson Tea Party.

Ally Miller, one of the patriots' board members, said this town is big enough for the both of them, noting the Phoenix area has about two dozen. "We just wanted to create a deeper reach," Miller said. The group plans to address national, state and local issues, as well as create subgroups to focus on specific issues, such as the proposed Downtown Tucson hotel, Miller said.

Pima County Tea Party Patriots are jumping straight off into the contentious issue that has provided plenty of hot water for politicians and political parties so far. Their first event is on SB 1070, an issue notably missing from the Tucson Tea Party's agenda.

Though Tucson Tea Party organizer Trent Humphries is sounding a cautious tone, he welcomed the newbies to get brewing on local issues.

"It takes a lot of work. If other groups want to put in that much work, then more power to them," Humphries said.

Poll Jobs

If you don't have anything to do Aug. 24, other than vote in the primary, Secretary of State Ken Bennett would like your help.

The state needs 14,000 poll workers to work at 2,200 polling places.

The paid positions come with training. Eligible people must be at least 16 years old, be a United States citizen and be available Aug. 24. If poll workers are 18 years or older, voter registration is required. There is a special exception for those under 18.

For more information, go online to www.azsos.gov/election/pollworker or contact the Pima County Recorder's Office at 740-4330 or Pima County Elections Division at 351-6830.

On StarNet: Read the Star's local politics blog, "Pueblo Politics," at go.azstarnet.com/pueblopoltics

Contact Rhonda Bodfield at 573-4243 or rbodfield@azstarnet.com. Contact Andrea Kelly at 807-7790 or akelly@azstarnet.com