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FEDERAL ELECTION  
COMMISSION

2010 DEC -6 AM 9:35

BEFORE THE FEDERAL ELECTION COMMISSION

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|--|---|----------|
| In the Matter of                           | ) |          |
|  | ) |          |
| William J. Pascrell; Pascrell for Congress | ) | MUR 6351 |
| and Edward Farmer, as treasurer (Case      | ) |          |
| Closure EPS)                               | ) |          |

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on December 02, 2010, the Commission decided by a vote of 6-0 to take the following actions in MUR 6351:

1. Find no reason to believe that William J. Pascrell, Jr. and Pascrell for Congress and Edward Farmer, in his official capacity as treasurer, violated 2 U.S.C. § 434(b).
2. Close the file and approve the appropriate letters.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

December 3, 2010  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

10044283206



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

DEC 13 2010

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Roland Straten

Montclair, NJ 07042

RE: MUR 6351  
Congressman William Pascrell, Jr.

Dear Mr. Straten:

The Federal Election Commission reviewed the allegations in your complaint received on August 11, 2010. On December 2, 2010, based upon the information provided in the complaint, and information provided by the respondent, the Commission determined that there was no reason to believe the respondents violated the Federal Election Campaign Act of 1971, as amended. Therefore, the Commission decided to close its file in this matter on December 2, 2010.

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). A copy of the dispositive General Counsel's Report is enclosed for your information. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 2 U.S.C. § 437g (a)(8).

Sincerely,

Christopher Hughey  
Acting General Counsel

BY: Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination and  
Legal Administration

Enclosure  
General Counsel's Report

10044283208



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA FIRST CLASS MAIL**

**DEC 13 2010**

Congressman William Pascrell, Jr.  
2464 Rayburn HOB  
Washington, DC 20515

RE: MUR 6351

Dear Congressman Pascrell:

On August 17, 2010, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On December 2, 2010, the Commission found, on the basis of the information in the complaint, and information provided by you that there is no reason to believe the Committee and you, as treasurer, violated 2 U.S.C. § 434(b). Accordingly, the Commission closed its file 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).

If you have any questions, please contact Kim Collins, the staff member assigned to this matter at (202) 694-1650.

Sincerely,

Christopher Hughey  
Acting General Counsel

A handwritten signature in black ink, appearing to read "Chris Hughey", written over the typed name and title.

BY: Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination and  
Legal Administration

Enclosure  
General Counsel's Report

cc: Congressman William Pascrell, Jr.  
Robert A. Roe Federal Building  
200 Federal Plaza Suite 500  
Paterson, NJ 07505

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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of

MUR 6351 )  
William J. Pascrell )  
Pascrell for Congress and )  
Edward Farmer, as treasurer )

CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY  
SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated \_\_\_\_\_  
\_\_\_\_\_ are

forwarded to the Commission with a recommendation for dismissal, or in certain cases where the complaint does not provide sufficient facts to indicate that a violation of the Federal Election Campaign Act of 1971, as amended (the "Act") may have occurred, a no reason to believe finding. The Office of General Counsel scored MUR 6351 as a low-rated matter.

In this matter, the complainant, congressional candidate Roland Straten, alleges that his opponent, incumbent Congressman William J. Pascrell, Jr., misused his Congressional mailing privileges by sending "campaign brochures" to constituents in two counties within his Congressional District.<sup>1</sup> The two four-page brochures, copies of which were attached to the complaint, were apparently disseminated using Congressman Pascrell's franked mail privileges and summarized the Congressman's "accomplishments" on behalf of his constituents. These mailers are almost identical, except that each contains information and statistics related to topics such as tax cuts, education, transportation and infrastructure, environment and green energy, health care, and seniors that are specific to the recipients in Essex County, New Jersey, and Passaic County, New Jersey.

<sup>1</sup> Congressman Pascrell represents New Jersey's Eighth Congressional District.

1           The complainant alleges that each brochure is "clearly a campaign piece," because  
2 neither one claims to be a "newsletter, information piece or anything other than a piece of  
3 campaign literature."<sup>2</sup> Further, according to the complainant, the mailers contain "outdated  
4 information" and lack "information that is helpful to a resident on how to obtain government  
5 services or specifics on rules and regulations on new bills." If the brochures were "truly []  
6 informational pieces[s]," the complainant maintains, "the information would be the same for both  
7 counties."

8           The complainant acknowledges that the mailers were disseminated on or about July  
9 31, 2010, approximately 95 days prior to the November 2, 2010, general election, in apparent  
10 compliance with the statutory provision pertaining to franked mail, 39 U.S.C. § 3210, which  
11 prohibits mass mailings postmarked fewer than 90 days immediately before a primary or general  
12 election for Members of the House.<sup>3</sup> However, he asserts that the mailers do not meet the  
13 statute's requirement that the franking privilege be used for "matters of public concern or public  
14 service," *id.*, and seems to imply that the costs of the mailers constituted an unreported in-kind  
15 contribution to Pascrell for Congress and Edward Farnner, in his official capacity as treasurer,  
16 (the "Committee"), in violation of 2 U.S.C. § 434(b). Therefore, according to the complainant,  
17 the Committee should either reimburse the federal government for the cost of the mailers or  
18 provide equal funding to the complainant's own congressional campaign.

19           In response, Congressman Pascrell acknowledges, on his own behalf and on behalf of his  
20 Committee (collectively "respondents"), that his Congressional office sent the mailers, but

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<sup>2</sup> In a news release issued August 4, 2010, by the complainant's campaign, he states that the mailer is a "violation of the spirit, if not the letter of the law..." <http://rolandstraten.com/2010/08/pascrell-sends-out-campaign-mailer-at-taxpayer-expense/>. Last visited November 8, 2010.

<sup>3</sup> New Jersey's primary election was held on June 8, 2010.

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1 asserts that they constituted "official government business undertaken by [his] Congressional  
2 office" and asserts that the complaint is "unfounded and politically motivated." Further, the  
3 respondents state that the mailers complied with all applicable franking rules and regulations. In  
4 support of this claim, the respondents submitted advisory opinions apparently issued by the staff  
5 of the House of Representatives Commission on Congressional Mailing Standards, which  
6 deemed the mailers to be "nonletters" that were "frankable under the provisions of [39 U.S.C.  
7 §§] 3210(a)(3)(A), 3210(a)(3)(B)."

8 The complaint in this matter contains no clear and concise recitation of facts which  
9 describe violations of the Act or Commission regulations, *see* 2 U.S.C. § 437g and 11 C.F.R.  
10 § 111.4(d)(3). Instead, the complaint alleges that the mailers did not constitute frankable  
11 materials pursuant to 39 U.S.C. § 3210, a statute over which the Commission lacks jurisdiction.  
12 Further, under the act, only a "person" may make a contribution or expenditure, 2 U.S.C.  
13 §§ 431(8)(A) and (9)(A), and "person" is specifically defined in the Act to exclude "the Federal  
14 Government or any authority of the Federal Government," 2 U.S.C. § 431(11). As such,  
15 Congressman Pascrell's mailings, which were paid for by the federal government, would not  
16 constitute a contribution or expenditure by the federal government or the Congressman acting in  
17 his official capacity.

18 Therefore, in light of the lack of available information suggesting violations of the Act,  
19 the Office of General Counsel recommends that the Commission find no reason to believe that  
20 the Committee or Congressman William J. Pascrell violated 2 U.S.C. § 434(b) in connection  
21 with the mailings sent by Congressman Pascrell's office.

22

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**RECOMMENDATIONS**

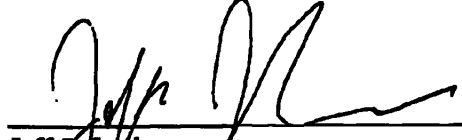
1. Find no reason to believe that William J. Pascrell, Jr. and Pascrell for Congress and Edward Farmer, in his official capacity as treasurer, violated 2 U.S.C. § 434(b); and
2. Close the file and approve the appropriate letters.

P. Christopher Hughey  
Acting General Counsel

11/17/12  
Date

BY:

  
\_\_\_\_\_  
Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

  
\_\_\_\_\_  
Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

  
\_\_\_\_\_  
Wanda D. Brown  
Attorney

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA FIRST CLASS MAIL**

DEC 13 2010

Edward Farmer, Treasurer  
Pascrell for Congress  
PO Box 640  
Totowa, NJ 07511

RE: MUR 6351

Dear Mr. Farmer:

On August 17, 2010, the Federal Election Commission notified Pascrell for Congress ("Committee") and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

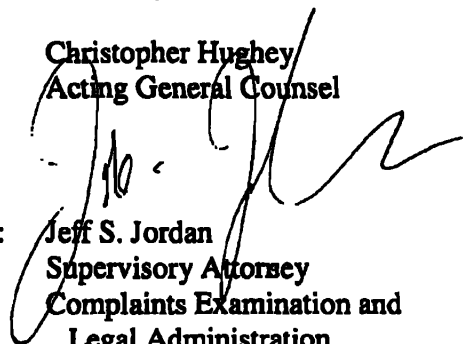
On December 2, 2010, the Commission found, on the basis of the information in the complaint, and information provided by Congressman Bill Pascrell, Jr., that there is no reason to believe the Committee and you, as treasurer, violated 2 U.S.C. § 434(b). Accordingly, the Commission closed its file in this 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).

If you have any questions, please contact Kim Collins, the staff member assigned to this matter at (202) 694-1650.

Sincerely,

Christopher Hughey  
Acting General Counsel

BY:   
Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination and  
Legal Administration

Enclosure  
General Counsel's Report

10044283210