

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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CITIZENS FOR RESPONSIBILITY AND	)		
ETHICS IN WASHINGTON, <i>et al.</i> ,	)		
	)		
Plaintiffs,	)	Civil Action No. 15-2038 (RC)	
	)		
v.	)		
	)		
FEDERAL ELECTION COMMISSION,	)		
	)		
Defendant.	)		
<hr/>		)	

**DECLARATION OF STUART C. MCPHAIL  
IN SUPPORT OF PLAINTIFFS’ REPLY IN SUPPORT OF PLAINTIFFS’ MOTION  
FOR SUMMARY JUDGMENT AND IN OPPOSITION TO  
DEFENDANT’S CROSS-MOTION FOR SUMMARY JUDGMENT**

I, STUART C. MCPHAIL, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an attorney licensed to practice law in the District of Columbia and am admitted to the Bar of this Court. I am counsel of record for Plaintiffs Citizens for Responsibility and Ethics in Washington and Melanie Sloan. I am personally familiar with the facts set forth herein, unless the context indicates otherwise.

2. Attached hereto as Exhibit 1 are true and correct excerpts from copies of the FEC Form 2, Statement of Candidacy, of Lou Barletta, Andrew P. Harris, George (“Mike”) J. Kelly Jr., John Michael ‘Mick’ Mulvaney, Scott R. Tipton, and Todd Christopher Young pertaining to their candidacy for federal office in the 2016 elections. These forms are available on the FEC website at <http://www.fec.gov/data/CandidateSummary.do>.

3. Attached hereto as Exhibit 2 is a table summarizing matters under review made available on the FEC website that I or my assistant could locate where the OGC recommended finding reason to believe that one or more respondents failed to register and report as a political committee. The chart is provided as a helpful summary, but all original materials may be located on the FEC's website at <http://eqs.fec.gov/eqs/searcheqs>.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 12, 2016 at Washington, D.C.

*/s/ Stuart McPhail*  
\_\_\_\_\_  
Stuart C. McPhail

## **Exhibit 1**

Image# 15970683178

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# FEC FORM 2

## STATEMENT OF CANDIDACY

1. (a) Name of Candidate (in full) Lou Barletta		2. Candidate's FEC Identification Number H2PA11098
(b) Address (number and street) P.O. Box 128		<input type="checkbox"/> Check if address changed
(c) City, State, and ZIP Code Hazleton PA 18201		3. Is This Statement <input type="checkbox"/> New (N) OR <input checked="" type="checkbox"/> Amended (A)
4. Party Affiliation REPUBLICAN PARTY	5. Office Sought House	6. State & District of Candidate PA 11

### DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

7. I hereby designate the following named political committee as my Principal Campaign Committee for the 2016 election(s).  
(year of election)

**NOTE:** This designation should be filed with the appropriate office listed in the instructions.

(a) Name of Committee (in full) Lou Barletta for Congress		
(b) Address (number and street) P.O. BOX 128		
(c) City, State, and ZIP Code Hazleton PA 18201		

### DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

8. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

**NOTE:** This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full) Victory for Pennsylvania Fund		
(b) Address (number and street) 2470 Daniels Bridge Road Suite 121		
(c) City, State, and ZIP Code Athens GA 30606		

*I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.*

Signature of Candidate Lou Barletta  <i>[Electronically Filed]</i>	Date 04/29/2015
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**NOTE:** Submission of false, erroneous, or incomplete information may subject the person signing this Statement to penalties of 2 U.S.C. §437g.

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# FEC FORM 2

## STATEMENT OF CANDIDACY

1. (a) Name of Candidate (in full) ANDREW P HARRIS			2. Candidate's FEC Identification Number H8MD01094	
(b) Address (number and street) PO BOX 426		<input checked="" type="checkbox"/> Check if address changed		
(c) City, State, and ZIP Code STEVENSVILLE MD 21666		3. Is This Statement <input checked="" type="checkbox"/> New (N) OR <input type="checkbox"/> Amended (A)		
4. Party Affiliation REPUBLICAN PARTY	5. Office Sought House	6. State & District of Candidate MD 01		

### DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

7. I hereby designate the following named political committee as my Principal Campaign Committee for the 2016 election(s).  
(year of election)

**NOTE:** This designation should be filed with the appropriate office listed in the instructions.

(a) Name of Committee (in full) ANDY HARRIS FOR CONGRESS		
(b) Address (number and street) PO BOX 426		
(c) City, State, and ZIP Code STEVENSVILLE MD 21666		

### DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

8. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

**NOTE:** This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full)		
(b) Address (number and street)		
(c) City, State, and ZIP Code		

*I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.*

Signature of Candidate ANDREW P HARRIS  <i>[Electronically Filed]</i>	Date 11/26/2014
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**NOTE:** Submission of false, erroneous, or incomplete information may subject the person signing this Statement to penalties of 2 U.S.C. §437g.

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# FEC FORM 2

## STATEMENT OF CANDIDACY

1. (a) Name of Candidate (in full) George J Kelly Jr		2. Candidate's FEC Identification Number H0PA03271
(b) Address (number and street) 239 W Pearl St		<input type="checkbox"/> Check if address changed
(c) City, State, and ZIP Code Butler PA 16001		3. Is This Statement <input checked="" type="checkbox"/> New (N) OR <input type="checkbox"/> Amended (A)
4. Party Affiliation REPUBLICAN PARTY	5. Office Sought House	6. State & District of Candidate PA 03

### DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

7. I hereby designate the following named political committee as my Principal Campaign Committee for the 2016 election(s).  
(year of election)

**NOTE:** This designation should be filed with the appropriate office listed in the instructions.

(a) Name of Committee (in full) Mike Kelly For Congress		
(b) Address (number and street) PO Box 476		
(c) City, State, and ZIP Code Lyndora PA 16045		

### DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

8. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

**NOTE:** This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full) Victory for Pennsylvania Fund		
(b) Address (number and street) 2470 Daniels Bridge Rd Suite 121		
(c) City, State, and ZIP Code Athens GA 30606		

*I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.*

Signature of Candidate George J Kelly Jr  <i>[Electronically Filed]</i>	Date 06/19/2015
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**NOTE:** Submission of false, erroneous, or incomplete information may subject the person signing this Statement to penalties of 2 U.S.C. §437g.

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# FEC FORM 2

## STATEMENT OF CANDIDACY

1. (a) Name of Candidate (in full) JOHN MICHAEL 'MICK' MULVANEY		2. Candidate's FEC Identification Number H0SC05031
(b) Address (number and street) <input type="checkbox"/> Check if address changed 550 RALPH HOOD ROAD		3. Is This Statement <input type="checkbox"/> New (N) OR <input checked="" type="checkbox"/> Amended (A)
(c) City, State, and ZIP Code INDIAN LAND SC 29707		
4. Party Affiliation REPUBLICAN PARTY	5. Office Sought House	6. State & District of Candidate SC 05

### DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

7. I hereby designate the following named political committee as my Principal Campaign Committee for the 2016 election(s).  
(year of election)

**NOTE:** This designation should be filed with the appropriate office listed in the instructions.

(a) Name of Committee (in full) Mulvaney for Congress	
(b) Address (number and street) P.O. Box 1975	
(c) City, State, and ZIP Code Lancaster SC 29721	

### DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

8. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

**NOTE:** This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full)
(b) Address (number and street)
(c) City, State, and ZIP Code

*I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.*

Signature of Candidate JOHN MICHAEL 'MICK' MULVANEY  <i>[Electronically Filed]</i>	Date 01/27/2015
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**NOTE:** Submission of false, erroneous, or incomplete information may subject the person signing this Statement to penalties of 2 U.S.C. §437g.

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# FEC FORM 2

## STATEMENT OF CANDIDACY

1. (a) Name of Candidate (in full) Scott R. Tipton		2. Candidate's FEC Identification Number H6CO03139
(b) Address (number and street) 13552 C R 26		<input type="checkbox"/> Check if address changed
(c) City, State, and ZIP Code CORTEZ CO 81321-1321		3. Is This Statement <input checked="" type="checkbox"/> New (N) OR <input type="checkbox"/> Amended (A)
4. Party Affiliation REPUBLICAN PARTY	5. Office Sought House	6. State & District of Candidate CO 03

### DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

7. I hereby designate the following named political committee as my Principal Campaign Committee for the 2016 election(s).  
(year of election)

**NOTE:** This designation should be filed with the appropriate office listed in the instructions.

(a) Name of Committee (in full) VoteTipton.Com		
(b) Address (number and street) PO Box 1582		
(c) City, State, and ZIP Code Cortez CO 81321-1582		

### DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

8. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

**NOTE:** This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full)		
(b) Address (number and street)		
(c) City, State, and ZIP Code		

*I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.*

Signature of Candidate Scott R. Tipton  <i>[Electronically Filed]</i>	Date 01/13/2015
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**NOTE:** Submission of false, erroneous, or incomplete information may subject the person signing this Statement to penalties of 2 U.S.C. §437g.

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**FEC FORM 2**  
**STATEMENT OF CANDIDACY**

SECRETARY OF THE SENATE  
16 SEP -7 PM 4:11

1. (a) Name of Candidate (in full) <b>TODD CHRISTOPHER YOUNG</b>		2. Candidate's FEC Identification Number <b>S6IN00191</b>
(b) Address (number and street) PO BOX 1053		<input type="checkbox"/> Check if address changed
(c) City, State, and ZIP Code <b>BLOOMINGTON IN 47402</b>		3. Is This Statement <input type="checkbox"/> New (N) OR <input checked="" type="checkbox"/> Amended (A)
4. Party Affiliation	5. Office Sought <b>Senate</b>	6. State & District of Candidate <b>IN</b>

**DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE**

7. I hereby designate the following named political committee as my Principal Campaign Committee for the 2016 election(s).  
(year of election)

**NOTE:** This designation should be filed with the appropriate office listed in the instructions.

(a) Name of Committee (in full) <b>FRIENDS OF TODD YOUNG, INC.</b>		
(b) Address (number and street) PO BOX 1053		
(c) City, State, and ZIP Code <b>BLOOMINGTON IN 47402</b>		

**DESIGNATION OF OTHER AUTHORIZED COMMITTEES**

(Including Joint Fundraising Representatives)

8. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

**NOTE:** This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full) <b>YOUNG VICTORY COMMITTEE</b>		
(b) Address (number and street) PO BOX 1053		
(c) City, State, and ZIP Code <b>BLOOMINGTON IN 47402</b>		

*I certify that I have examined this Statement and to the best of my knowledge and belief it is true, correct and complete.*

Signature of Candidate 	Date <b>9/17/16</b>
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**NOTE:** Submission of false, erroneous, or incomplete information may subject the person signing this Statement to penalties of 2 U.S.C. §437g.

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## **Exhibit 2**

Table 2. Commission Certification votes in MUR cases where the Office of the General Counsel recommends a finding of “reason to believe” that respondent violated the law by failing to register as a political committee.

MUR #	Respondent	Respondent type	Certification date	Vote tally	Dissenting commissioners	Certification url	Dissenting commissioners' reliance on prosecutorial discretion to dismiss	Statement of Reasons url
5694 / 5910	Americans for Job Security	501(c)(6)	2/25/2009	3-3	Hunter; McGahn II; Petersen	<a href="http://eqs.fec.gov/eqsdocsMUR/29044232232.pdf">http://eqs.fec.gov/eqsdocsMUR/29044232232.pdf</a>	Footnote 76	<a href="http://eqs.fec.gov/eqsdocsMUR/29044232815.pdf">http://eqs.fec.gov/eqsdocsMUR/29044232815.pdf</a>
5842	Economic Freedom Fund	527	4/14/2009	3-2	Hunter; Petersen	<a href="http://eqs.fec.gov/eqsdocsMUR/29044240853.pdf">http://eqs.fec.gov/eqsdocsMUR/29044240853.pdf</a>	Footnote 86	<a href="http://eqs.fec.gov/eqsdocsMUR/29044242676.pdf">http://eqs.fec.gov/eqsdocsMUR/29044242676.pdf</a>
5977 / 6005	American Leadership Project	527	2/25/2009	2-3	Hunter; McGahn II; Petersen	<a href="http://eqs.fec.gov/eqsdocsMUR/29044231595.pdf">http://eqs.fec.gov/eqsdocsMUR/29044231595.pdf</a>	Footnote 87	<a href="http://eqs.fec.gov/eqsdocsMUR/29044234439.pdf">http://eqs.fec.gov/eqsdocsMUR/29044234439.pdf</a>
6082	Majority Action	527	4/15/2009	2-2	Hunter; Petersen	<a href="http://eqs.fec.gov/eqsdocsMUR/29044243016.pdf">http://eqs.fec.gov/eqsdocsMUR/29044243016.pdf</a>	None	<a href="http://eqs.fec.gov/eqsdocsMUR/29044250003.pdf">http://eqs.fec.gov/eqsdocsMUR/29044250003.pdf</a>
6094	American Leadership Project	527	5/12/2009	2-3	Hunter; McGahn II; Petersen	<a href="http://eqs.fec.gov/eqsdocsMUR/29044243219.pdf">http://eqs.fec.gov/eqsdocsMUR/29044243219.pdf</a>	Footnote 87	<a href="http://eqs.fec.gov/eqsdocsMUR/29044244978.pdf">http://eqs.fec.gov/eqsdocsMUR/29044244978.pdf</a>
6391 / 6471	Commission on Hope, Growth and Opportunity	501(c)(4)	9/16/2014	3-3	Goodman; Hunter; Petersen	<a href="http://eqs.fec.gov/eqsdocsMUR/15044380114.pdf">http://eqs.fec.gov/eqsdocsMUR/15044380114.pdf</a>	Footnote 17	<a href="http://eqs.fec.gov/eqsdocsMUR/15044381253.pdf">http://eqs.fec.gov/eqsdocsMUR/15044381253.pdf</a>
6402	American Future Fund	501(c)(4)	11/18/2014	3-2	Hunter; Petersen	<a href="http://eqs.fec.gov/eqsdocsMUR/14044364829.pdf">http://eqs.fec.gov/eqsdocsMUR/14044364829.pdf</a>	Footnotes 161, 177	<a href="http://eqs.fec.gov/eqsdocsMUR/14044364910.pdf">http://eqs.fec.gov/eqsdocsMUR/14044364910.pdf</a>
6538	Americans for Job Security	501(c)(6)	6/24/2014	3-3	Goodman; Hunter; Petersen	<a href="http://eqs.fec.gov/eqsdocsMUR/14044361730.pdf">http://eqs.fec.gov/eqsdocsMUR/14044361730.pdf</a>	Footnotes 142, 153	<a href="http://eqs.fec.gov/eqsdocsMUR/14044361962.pdf">http://eqs.fec.gov/eqsdocsMUR/14044361962.pdf</a>
6589	American Action Network	501(c)(4)	6/24/2014	3-3	Goodman; Hunter; Petersen	<a href="http://eqs.fec.gov/eqsdocsMUR/14044361924.pdf">http://eqs.fec.gov/eqsdocsMUR/14044361924.pdf</a>	Footnotes 137, 153	<a href="http://eqs.fec.gov/eqsdocsMUR/14044362004.pdf">http://eqs.fec.gov/eqsdocsMUR/14044362004.pdf</a>
5831	Softer Voices	527	2/11/2009	6-0	none	<a href="http://eqs.fec.gov/eqsdocsMUR/10044282424.pdf">http://eqs.fec.gov/eqsdocsMUR/10044282424.pdf</a>	N/A	N/A
6106	MN Corn PAC	State political committee	10/21/2008	6-0	none	<a href="http://eqs.fec.gov/eqsdocsMUR/29044224629.pdf">http://eqs.fec.gov/eqsdocsMUR/29044224629.pdf</a>	N/A	N/A
6315	Alvin M. Greene for Senate	Campaign Committee	2/16/2011	6-0	none	<a href="http://eqs.fec.gov/eqsdocsMUR/12044322967.pdf">http://eqs.fec.gov/eqsdocsMUR/12044322967.pdf</a>	N/A	N/A
6317	Utah Defenders of Constitutional Integrity	Not formally organized	4/5/2011	5-0	none	<a href="http://eqs.fec.gov/eqsdocsMUR/12044312662.pdf">http://eqs.fec.gov/eqsdocsMUR/12044312662.pdf</a>	N/A	N/A
6396	Crossroads Grassroots Political Strategies	501(c)(4)	12/3/2013	3-3	Goodman; Hunter; Petersen	<a href="http://eqs.fec.gov/eqsdocsMUR/14044350869.pdf">http://eqs.fec.gov/eqsdocsMUR/14044350869.pdf</a>	Footnote 117	<a href="http://eqs.fec.gov/eqsdocsMUR/14044350970.pdf">http://eqs.fec.gov/eqsdocsMUR/14044350970.pdf</a>
6560	Victory Ohio SuperPAC	Not formally organized	1/8/2013	3-2	McGahn II; Petersen	<a href="http://eqs.fec.gov/eqsdocsMUR/14044362075.pdf">http://eqs.fec.gov/eqsdocsMUR/14044362075.pdf</a>	Statement not issued	N/A

Note: These cases were identified using the Federal Election Commission's (FEC) Enforcement Query System. CREW researchers reviewed MUR cases concerning possible violations of the law requiring that political committees register with the Federal Election Commission (FEC) on which a majority of the current commissioners cast votes (June 24, 2008 through the present). The universe of cases for review was identified using text field and statutory citation field searches for mentions of “433” and “30103” to capture references to 52 U.S.C. § 30103 and its previous codification at 2 U.S.C. § 433, the provisions of the FECA requiring groups to register as political committees. Additional cases were identified using text searches for “failing to register” and “failing to organize,” phrases which appear frequently in cases relevant to our inquiry.