

February 9, 2012

Omar Ashmawy
Staff Director and Chief Counsel
Office of Congressional Ethics
1017 Longworth HOB
Washington, DC 20515

Re: Request for Investigation into Conduct of Rep. Michael Grimm (R-NY)

Dear Mr. Ashmawy:

Citizens for Responsibility and Ethics in Washington respectfully requests that the Office of Congressional Ethics (“OCE”) investigate whether Rep. Michael Grimm (R-NY) violated federal law and House rules by attempting to assist a foreign citizen obtain a green card in exchange for helping him raise hundreds of thousands of dollars in campaign contributions, some of which may have been illegal.

Background

According to a recent news report, during Rep. Grimm’s campaign for Congress in 2010, he established close ties with Ofer Biton, an Israeli citizen.¹ Mr. Biton is a top aide to Rabbi Yoshiyahu Yosef Pinto, who leads a large congregation in New York. Soon after Rep. Grimm began running for Congress, he and Mr. Biton traveled around the New York region raising money for Rep. Grimm’s campaign from Rabbi Pinto’s followers. With Mr. Biton’s help, Rep. Grimm raised more than \$500,000 from Rabbi Pinto’s followers, more than half the total amount he collected from individuals for his campaign.

Several of Rep. Pinto’s followers described actions by Rep. Grimm that may have violated campaign finance laws, and said Rep. Grimm told donors there were ways to get around those laws. One of the followers said Rep. Grimm pressed him for a \$20,000 donation in the summer of 2010, then instructed him to meet Rep. Grimm near the FBI building in Manhattan. As directed, the follower met Rep. Grimm and handed over \$5,000 in cash in an envelope. Under the Federal Election Campaign Act (“FECA”) and federal campaign regulations, it is illegal to make a cash contribution of more than \$100, and any campaign receiving a cash contribution in excess of \$100 must immediately return the excess amount.² In addition,

¹ Alison Leigh Cowan and William K. Rashbaum, Rabbi’s Followers Cast Doubts on Congressman’s Fund-Raising, *New York Times*, January 27, 2012 (attached as Exhibit A). Except as otherwise noted, all of the facts herein are drawn from this article.

² 2 U.S.C. § 441g; 11 C.F.R. § 110.4(c).

campaigns may not accept contributions in excess of the statutory limit, which was \$2,400 per election in 2010.³

Another follower of Rabbi Pinto asserted that when Rep. Grimm came to his office to collect a legal contribution, Rep. Grimm told him there were ways of working around the campaign rules. Rep. Grimm “wanted you to supply the money, and if someone wants to give and cannot give, you have to find a friend to give it through,” the follower said. The FECA and federal campaign regulations prohibit accepting campaign contributions in the name of another or assisting anyone in making contributions in someone else’s name.⁴

A third follower of Rabbi Pinto said he picked up, at Mr. Biton’s behest, \$25,000 for Rep. Grimm’s campaign from a single Israeli citizen. This follower said the money was listed falsely in Rep. Grimm’s campaign disclosure filings as having been contributed by at least five other individuals. The follower added he gave the checks to Mr. Biton, who gave them to Rep. Grimm. Again, federal campaign law prohibits accepting campaign contributions in the name of another or assisting anyone in making contributions in someone else’s name.⁵ It is also illegal for a federal campaign to solicit, accept, or receive a contribution from a foreign national.⁶

According to the followers interviewed by the *New York Times*, Mr. Biton gathered the campaign contributions for Rep. Grimm “in hopes that if Mr. Grimm won, he would help Mr. Biton obtain a green card.” It is not known whether Rep. Grimm took any action to assist Mr. Biton. Rep. Grimm has denied allegations that he accepted illegal cash contributions, conspired to funnel money to his campaign or orchestrated any illegal contributions.⁷ He has not, however, addressed whether he assisted Mr. Biton in attempting to obtain a green card.

Mr. Biton currently is being investigated by the FBI and federal prosecutors for allegedly embezzling millions of dollars from Rabbi Pinto’s congregation.

³ 2 U.S.C. §§ 441a(a)(1)(A), 441a(f); Contribution Limitation Increases for Individuals, Nonmulticandidate Committees and for Certain Political Party Committees Giving to U.S. Senate Candidates for 2009-2010 Election Cycle, 74 Fed. Reg. 7437 (Feb. 17, 2009).

⁴ 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b).

⁵ 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b).

⁶ 2 U.S.C. § 441e(a)(2).

⁷ Tom Wroblewski, Defiant Staten Island Rep. Michael Grimm Predicts Voters Will Return Him To Office, *Staten Island Advance*, February 2, 2012 (attached as Exhibit B).

Violations

Acceptance of a Bribe

Federal law prohibits public officials from directly or indirectly demanding, seeking, receiving, accepting, or agreeing to receive or accept anything of value in return for being influenced in the performance of an official act.⁸ If Rep. Grimm promised that upon election he would use his government position to assist Mr. Biton's attempt to obtain a green card in return for Mr. Biton's raising hundreds of thousands of dollars for Rep. Grimm's congressional campaign, Rep. Grimm likely accepted a bribe.

Illegal Gratuity

The federal illegal gratuity statute similarly prohibits a public official from directly or indirectly demanding, seeking, receiving, accepting, or agreeing to accept anything of value personally for or because of any official act performed or to be performed by such official.⁹ In considering this statute, the Supreme Court has held that an illegal gratuity "may constitute merely a reward for some future act that the public official will take (and may already have determined to take)," and that a link must be established between the gratuity and a specific action taken by or to be taken by the government official.¹⁰ If Rep. Grimm took any official action to assist Mr. Biton as a reward for Mr. Biton's raising hundreds of thousands of dollars in contributions for Rep. Grimm's campaign, he likely accepted an illegal gratuity.

Taking Official Action on the Basis of Campaign Support

The House Ethics Manual provides that "Members and staff are not to take or withhold any official action on the basis of the campaign contributions or support of the involved individuals, or their partisan affiliation."¹¹ The House Ethics Manual also makes clear that "Members and staff that they are not to give preferential treatment to casework requests made by the Member's supporters or contributors."¹² Rather, "all requests for casework assistance are to

⁸ 18 U.S.C. § 201(b)(2)(A).

⁹ 18 U.S.C. § 201(c)(1)(B).

¹⁰ *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398, 404, 414 (1999).

¹¹ House Comm. on Standards of Official Conduct, House Ethics Manual, p. 150 (110th Cong., 2d Sess., 2008 ed.).

¹² *Id.*, p. 151.

be handled according to their merits.”¹³

If Rep. Grimm took any official action to assist Mr. Biton’s attempt to obtain a green card because Mr. Biton helped him raise hundreds of thousands of dollars for his congressional campaign, he likely violated these provisions of the House Ethics Manual.

Code of Ethics for Governmental Service, Clause 5

The Code of Ethics for Governmental Service provides that government officials should:

Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his official duties.¹⁴

If Rep. Grimm took any official action to assist Mr. Biton attempt to obtain a green card because Mr. Biton helped him raise hundreds of thousands of dollars for his congressional campaign, he likely dispensed special favors in violation of the Code of Ethics for Governmental Service.

House Rule 23

Rule 23 of the House Ethics Manual requires all members of the House to conduct themselves “at all times in a manner that reflects creditably on the House.”¹⁵ This ethics standard is considered to be “the most comprehensive provision” of the code.¹⁶ When this section was first adopted, the Select Committee on Standards of Official Conduct of the 90th Congress noted it was included within the Code to deal with “flagrant” violations of the law that reflect on “Congress as a whole,” and that might otherwise go unpunished.¹⁷ This rule has been relied on

¹³ *Id.* (emphasis in original).

¹⁴ 72 Stat., Part 2, B12, H. Res. 175, 85th Cong. (adopted July 11, 1958); House Comm. on Standards of Official Conduct, *House Ethics Manual*, p. 20 (110th Cong., 2d Sess., 2008 ed.).

¹⁵ Rule 23, cl. 1.

¹⁶ House Comm. on Standards of Official Conduct, House Ethics Manual, p. 12.

¹⁷ House Comm. on Standards of Official Conduct, Report Under the Authority of H. Res. 418, H. Rep. No. 1176, 90th Cong., 2d Sess. 17 (1968).

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by the Ethics Committee in numerous prior cases in which the committee found unethical conduct including making false statements to the committee.¹⁸

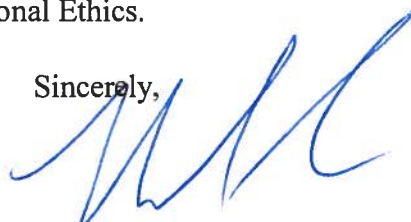
If Rep. Grimm took any official action to assist Mr. Biton's attempt to obtain a green card because Mr. Biton helped him raise hundreds of thousands of dollars for his congressional campaign, he likely engaged in conduct that does not reflect creditably on the House.

Conclusion

The public record suggests Rep. Grimm's may abused his position in Congress to assist his largest fundraiser's attempt to obtain a green card.¹⁹ Giving preferential treatment to campaign supporters violates the fundamental values of democratic government, and is forbidden by House rules. OCE should commence an immediate investigation and forward this matter to the House Ethics Committee and any other relevant government authorities for appropriate action.

I am aware that the False Statements Act, 18 U.S.C. § 1001, applies to information submitted to the Office of Congressional Ethics.

Sincerely,



Melanie Sloan
Executive Director
Citizens for Responsibility and
Ethics in Washington

Encls.

¹⁸ House Comm. on Standards of Official Conduct, *In the Matter of Representative Charles H. Wilson (of California)*, H. Rep. No. 95-1741, 95th Cong., 2d Sess. 4-5 (1978); *In the Matter of Representative Edward R. Roybal*, H. Rep. No. 95-1743, 95th Cong., 2d Sess. 2-3 (1978) (Counts 3-4).

¹⁹ CREW has filed a Freedom of Information Act request with the Department of Homeland Security to discover what if any contacts Rep. Grimm had with the agency on Mr. Biton's behalf. Should DHS produce any relevant records, we will forward them to OCE.

EXHIBIT A

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January 27, 2012

Rabbi's Followers Cast Doubts on Congressman's Fund-Raising

By ALISON LEIGH COWAN and WILLIAM K. RASHBAUM

Soon after he began running for Congress in 2009, Michael G. Grimm, a Staten Island Republican, needed to convince party leaders in Washington that he could raise enough money to become a viable candidate. Seeking help, he turned to an unlikely source: followers of an Orthodox rabbi and mystic from Israel.

Mr. Grimm, a former agent for the Federal Bureau of Investigation and a Roman Catholic who regularly attends Sunday Mass, traveled around the New York region with one of the rabbi's top aides, Ofer Biton, to raise campaign money from the rabbi's followers. In all, the Grimm campaign collected more than \$500,000 from the followers, according to numerous interviews and an analysis of Mr. Grimm's campaign records.

That money — more than half of the total that Mr. Grimm raised from individuals — proved instrumental in his upset of the Democratic incumbent in November 2010. Since then, Mr. Grimm has established a profile as a rising Republican star.

But now, Mr. Biton, an Israeli citizen, is being investigated by the F.B.I. and federal prosecutors in Brooklyn over accusations that he embezzled millions of dollars from the rabbi's congregation. And an examination by The New York Times has highlighted Mr. Biton's unusual role in the Grimm campaign — as well as questionable donations that the rabbi's followers said Mr. Grimm had accepted.

The examination of Mr. Grimm's fund-raising was based on more than 15 interviews with followers and associates of the rabbi, Yoshiyahu Yosef Pinto, who divides his time between Israel and Manhattan, where he has a large congregation.

Mr. Grimm would not respond to questions about Mr. Biton and his campaign finances beyond issuing a general statement.

"Any suggestion that I was involved in any activities that may run afoul of the campaign finance laws is categorically false and belied by my life of public service protecting and

enforcing the laws of this country,” Mr. Grimm said in the statement on Friday.

In interviews, followers of the rabbi spoke repeatedly about the close ties between Mr. Grimm and Mr. Biton.

“Grimm and Biton were together all the time during the campaign,” said one of the followers, Yossi Zaga, a real estate investor who donated \$4,800, the legal limit, to Mr. Grimm at Mr. Biton’s urging. “They would drive around together to the homes and offices and ask for contributions.”

Three of the rabbi’s followers said in separate interviews that Mr. Grimm or Mr. Biton told them that the campaign would find a way to accept donations that were over the legal limit, were given in cash or were given by foreigners without green cards.

Congressional campaigns are not allowed to accept cash donations of more than \$100. Foreigners without green cards are barred by law from giving to political campaigns. They are also not allowed to solicit contributions for campaigns.

One follower of the rabbi said in an interview that Mr. Grimm pressed him for \$20,000. The follower said Mr. Grimm instructed him to meet him “near the F.B.I. building,” in Lower Manhattan, in summer 2010 to give the money. The follower said he handed over \$5,000 in cash in an envelope to Mr. Grimm in Mr. Grimm’s car.

Within a week, the follower said, he gave Mr. Grimm a \$5,000 check from a friend. Mr. Grimm then repeatedly called the follower and demanded another \$10,000, the follower said.

“Every day, he used to call me, over and over,” the follower said.

The follower said he ignored the calls and did not give again.

A second follower recalled that Mr. Grimm came to his office in Manhattan to solicit a legal contribution. As he was handing over the check, the second follower said, Mr. Grimm confided in him that there were ways of working around the campaign rules.

“Grimm wanted you to supply the money, and if someone wants to give and cannot give, you have to find a friend to give it through,” the second follower recalled. “Let’s say someone is not legal to give because he’s not American. Grimm wants this guy, Joe A, to give the money to Joe B so Joe B can make the contribution to the campaign.”

A third follower said he picked up, at Mr. Biton’s behest, \$25,000 for Mr. Grimm’s campaign from a single Israeli.

"I give the checks to Ofer, and he gives them to Michael," the third follower said.

The third follower said the money donated by the Israeli was falsely listed in Mr. Grimm's campaign disclosure records as having been given by at least five other people. The practice referred to — creating so-called straw donors — is illegal.

The rabbi's followers who described what they said was questionable fund-raising by Mr. Grimm spoke only on the condition of anonymity, saying they did not want to become ensnared in the federal embezzlement inquiry into Mr. Biton.

Spokesmen for the United States attorney's office in Brooklyn and the F.B.I. would not respond to questions about Mr. Biton.

The Times contacted Mr. Grimm's office on Monday and supplied a list of questions about his fund-raising and Mr. Biton.

On Thursday, Mr. Grimm responded with an e-mail from his personal account.

"At first, I thought it was a joke because the allegations are so absurd and ridiculous," Mr. Grimm wrote. "But let me be very clear, the information you received is completely false and I know is unsubstantiated, thus completely unfit to print."

Mr. Grimm wrote that he would readily consent to be interviewed for this article. But he did not respond to further queries, and on Friday, he issued the official statement through his lawyer, reiterating that he had never violated campaign rules.

The donors interviewed by The Times said they gave money to the Grimm campaign because Mr. Biton told them that Rabbi Pinto wanted people in his congregation to do so.

The rabbi's followers said Mr. Biton rounded up campaign money for Mr. Grimm in hopes that if Mr. Grimm won, he would help Mr. Biton obtain a green card.

It could not be determined whether Mr. Grimm did anything to help Mr. Biton with the immigration authorities.

Rabbi Pinto's spokesman said the rabbi had met with Mr. Grimm but had not been aware at the time that Mr. Biton was raising money so aggressively for Mr. Grimm.

In a statement, Mr. Biton's lawyer, Jeffrey A. Udell, denied that Mr. Biton had ever raised money for Mr. Grimm.

"You asked, Did he pick up checks for Grimm's campaign, and the answer is categorically no,"

Mr. Udell said.

Mr. Biton has denied allegations by the rabbi's followers that he embezzled millions of dollars from the rabbi's congregation, the focus of the federal inquiry.

Rabbi Pinto has built a thriving congregation since he established a branch of his movement in New York City in 2002, attracting many prominent worshipers. Some celebrities, like the basketball star LeBron James, who is not Jewish, have gone to see him.

Representative Anthony D. Weiner, a New York Democrat, met with the rabbi before he resigned from Congress. Representative Eric Cantor of Virginia, the House majority leader, also met with him. Both men are Jewish.

A small number of the rabbi's followers donated to the campaigns of Mr. Weiner and Mr. Cantor. But no politician has relied as extensively for campaign money upon the followers as Mr. Grimm, according to campaign finance records.

The vast majority of the followers who donated to Mr. Grimm's 2010 campaign had never before given to a federal candidate, according to campaign records, and did not live in Mr. Grimm's district, which includes Staten Island and part of Brooklyn.

It is not clear how Mr. Grimm met Mr. Biton, but the two men and a New York public relations executive named Ronn Torossian have often spent time together since Mr. Grimm embarked on his dark horse Congressional campaign.

"Lunch with Congressman Michael Grimm," Mr. Torossian wrote on his Twitter account in October 2011. "He always leaves me inspired with hope in government."

Mr. Torossian is also a subject of the federal inquiry into the embezzlement of money from the rabbi's congregation.

Mr. Torossian's lawyer, Gerald L. Shargel, said his client supported Mr. Grimm and gave money to his campaign but played "absolutely no role" in efforts to raise money from the rabbi's followers.

"He absolutely denies any wrongdoing," Mr. Shargel said, "and sees himself as a victim in this case."

Mr. Grimm has received very few donations from Rabbi Pinto's followers for his 2012 re-election campaign, the records show. The followers interviewed said they did not want to donate to the Grimm campaign after federal prosecutors began investigating the embezzlement accusations against Mr. Biton.

Alain Delaqu erie and Griff Palmer contributed reporting.

EXHIBIT B

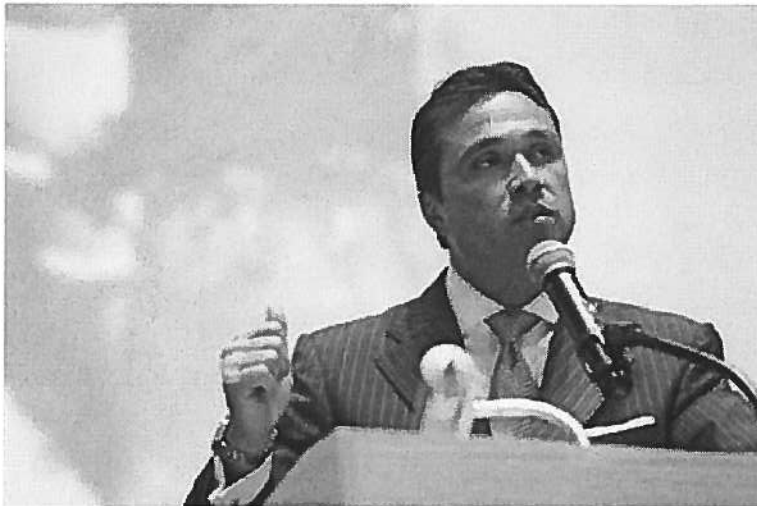


Defiant Staten Island Rep. Michael Grimm predicts voters will return him to office

Published: Thursday, February 02, 2012, 7:54 AM Updated: Thursday, February 02, 2012, 9:10 AM



By **Tom Wroblewski**



Staten Island Advance/Bill Lyons

In an interview with the Advance, Rep. Michael Grimm -- pictured in a September appearance at the Jewish Community Center -- broke his nearly week-long silence about allegations that he violated campaign finance regulations.

WASHINGTON, D.C. -- Rep. Michael Grimm yesterday issued a full-throated self-defense amid allegations that he took illegal campaign contributions.

"I never took any illegal cash contributions. Ever," Grimm (R-Staten Island/Brooklyn) told the Advance during an exclusive Capitol Hill interview. "I never conspired or coordinated or ever in any way discussed funneling illegal contributions. It is absolute nonsense."

Grimm said that the allegations would have no impact on his re-election bid this year.

"I'm not running -- I'm winning," Grimm said. "And I will win by a big margin. And at the

end of all this, there's going to be a lot of apologies owed."

Grimm declined to put a number on his "big margin" to come.

Grimm's comments to the Advance were the first extended remarks he has made about the allegations since a story in The New York Times last weekend said that Grimm took illegal cash contributions for his 2010 race from followers of Rabbi Yoshiyahu Yosef Pinto.

The story accused Grimm of taking over-the-limit cash donations and taking donations from foreigners without green cards, who are barred from donating to political campaigns.

He has not officially been accused of any wrongdoing.

It was also alleged that Grimm took \$5,000 in campaign cash in an envelope in his car while parked near the

FBI building in Lower Manhattan.

As a former FBI agent, Grimm said that that allegation in particular shows "just how ridiculous this is."

"Not only are they saying I'm a criminal, they're saying I'm a very stupid criminal," he said. "Everyone knows that that building is under surveillance for blocks. So why would I go where there's surveillance to do a criminal act? That's why I'm saying it's preposterous."

Said Grimm, "I am a former FBI agent. I am a United States Marine. I've held myself with honor and integrity always. And that's the level I will maintain here as a congressman."

When asked if he would be vindicated, Grimm said, "Oh, there's no question. There's no question."

After not returning phone calls from the Advance in recent days, Grimm yesterday took a break from a hearing of the financial institutions and consumer credit subcommittee of the House Committee on Financial Services to speak with the newspaper. The interview took place in the hallway outside the Wright Patman Room in the Rayburn House Office Building on Capitol Hill.

Grimm's troubles have former Rep. Michael McMahon and Assemblyman Michael Cusick, both Democrats, looking seriously at getting into the race this year.

The more the merrier, according to Grimm.

"Everyone that wants to run should run," Grimm said. "I welcome any and all opponents."

Grimm has hired a team of attorneys and public relation handlers, separate from his official staff, to deal with the allegations.

He said their first duty was to "immediately contact" the Department of Justice, the House Ethics Committee and the Federal Election Commission (FEC) about the allegations in order eventually to "have my name completely cleared."

"That's what I've been working on while I'm not working endlessly on major issues involving Staten Island," Grimm said.

Said Grimm, "Someone accuses me of a crime, I take that very serious."

The team includes Chad Kolton and Terry Holt of the GOP-connected HDMK public relations firm and attorney Ben Ginsberg of the Patton Boggs firm in Washington. Ginsberg's expertise is campaign, election and FEC law.

Kolton told the Advance that because the accusations involve "erroneous campaign finance allegations," campaign funds would be used for the legal and public relations efforts.

Borough Democrats and others have called for House Ethics and the FEC to investigate the allegations.

But Grimm said he has beaten his foes to the punch.

"I know my opponents are going to use this for political advantage, and call on all different types of investigations," Grimm said. "They're wasting their time because the first thing I did was put the team together to reach out to the appropriate authorities."

He declined to discuss the charges in depth.

"I understand and respect that process," he said. "That's why I'm not going to go into details in a newspaper."

That includes discussing how the out-of-district Jewish donors came to contribute to his campaign in the first place.

"Out of respect for the process, I am not going to get into the stuff that I think the FEC, Department of Justice and Ethics Committee will be able to very clearly discern," Grimm said. "I am not going to jeopardize their process or in any way influence their process."

Grimm added that he appreciated the "unbelievable outpouring of support from my constituents and supporters. It means the world to me."

He assured Islanders and Brooklynites that he continues to tend to their business despite fighting the allegations.

"I'm still on the job, 100 percent," Grimm said.

To that end, Grimm today is set to meet with Port Authority of New York and New Jersey chief Patrick Foye.

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