

RECEIVED
FEDERAL ELECTION
COMMISSION

2011 MAY 31 AM 9:15

CELA



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

1
2 **MEMORANDUM**
3

4 **TO:** The Commission
5

6 **FROM:** Christopher Hughey
7 Acting General Counsel
8

9 Kathleen Guith
10 Acting Associate General Counsel for Enforcement
11

12 Susan Lebeaux
13 Acting Deputy Associate General Counsel for Enforcement
14

15 **BY:** Mark Shonkwiler *MS*
16 Assistant General Counsel
17

18 Margaret Ritzert *MR ms*
19 Attorney
20

21 **SUBJECT:** MUR 6268 (Alan Grayson, et al.) – Pre-Probable Cause Conciliation
22

23 Attached is a [] conciliation agreement which settles violations of 2 U.S.C.
24 § 441i(e) by Alan Grayson and the Committee to Elect Alan Grayson and Paul Ashcraft, in his
25 official capacity as treasurer, (collectively, "Respondents"), involving the dissemination of a
26 solicitation for corporate contributions in connection with a non-federal election. Attachment 1.
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We believe this negotiated agreement represents a reasonable compromise under the circumstances. Therefore, we recommend that the Commission accept the attached conciliation agreement and close the file.

RECOMMENDATIONS:

1. Accept the attached conciliation agreement with Alan Grayson and the Committee to Elect Alan Grayson and Paul Ashcraft, in his official capacity as treasurer.
2. Approve the appropriate letter.
3. Close the file.



JUNE 23rd 2011

TWO WAY MEMORANDUM

TO: OGC Docket
FROM: Anh Vuong
Financial Analyst
SUBJECT: Account Determination for Funds Received

We recently received a check from Committee to Elect Alan Grayson . The check is number 52970 dated June 20, 2011 in the amount of \$4,125.00. A copy of the check and all correspondence are attached. Please indicate below which account the funds should be deposited and give the MUR/Case number and name associated with the deposit.

TO: Anh Vuong
Financial Analyst
FROM: OGC Docket
SUBJECT: Disposition of Funds Received

In reference to the above check in the amount of \$ 4125.00 ,
the MUR/Case number is 6268 and in the name of Committee to Elect Alan Grayson .

Please this deposit in the account indicated below:

- Civil Penalties Account, 95-1099.160
- Miscellaneous Receipt Account, 95-3220.160
(Disgorgement)

Kim Collins
Digitally signed by Kim Collins
DN: cn=Kim Collins, o=Texas Election Commission, email=kim.collins@texas.gov
Signature

June 27, 2011
Date

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Do Not Separate From Document

CORRESPONDENCE CONTROL SLIP

Federal Election Commission

Brett G. Kappel
1050 Connecticut Ave NW
Washington Dc 20036

Subject of Correspondence
MUR 6268 \$4,125.00

Receipt Date
06/23/2011

Suspense Date
07/14/2011

Route to

1. RSwinton
2. Docket
- 3.
- 4.

of

General Counsel

Special Instructions

RECEIVED
 FEDERAL ELECTION
 COMMISSION
 FINANCE OFFICE
 2011 JUN 23 P 12:10

FEC Form 10-17 (Revised October 1999)

Suspense No 002262

Committee to Elect Alan Grayson
 8419 Oak Park Road
 Orlando, FL 32819
 1-800-403-0303
 FEC Committee ID #: C00424713

SUNTRUST BANK
63-215/631

52970

06/20/2011

PAY TO THE ORDER OF US Treasury

\$ **4,125.00

Four thousand one hundred twenty-five and 00/100*****

DOLLARS  

US Treasury

VOID after 90 days

EMO MUR 6268



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RECEIVED
FEDERAL ELECTION
COMMISSION

2010 OCT 20 PM 4: 04

BEFORE THE FEDERAL ELECTION COMMISSION

CELA

In the Matter of)
) MUR 6268
Congressman Alan Grayson;)
Committee to Elect Alan Grayson and)
Paul Ashcraft, in his official capacity as)
treasurer)

CERTIFICATION

I, Shawn Woodhead Werth, recording secretary for the Federal Election Commission executive session on October 19, 2010, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 6268:

1. Find reason to believe that Alan Grayson violated 2 U.S.C. § 441i(e).
2. Find reason to believe that the Committee to Elect Alan Grayson and Paul Ashcraft, in his official capacity as treasurer, violated 2 U.S.C. § 441i(e).
3. Authorize the Office of General Counsel to revise the Factual and Legal Analysis, as recommended in the First General Counsel's Report dated September 10, 2010, pursuant to the meeting discussion; and circulate the
revised Factual and Legal Analysis on a 24-hour
no-objection basis.

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

Attest:

October 20, 2010
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Brett G. Kappel, Esq.
Arent Fox
1050 Connecticut Avenue, NW
Washington, DC 20036-5339

NOV 19 2010

RE: MUR 6268
Alan Grayson;
Committee to Elect Alan Grayson
and Paul Ashcraft, in his official
capacity as Treasurer

Dear Mr. Kappel:

On April 8, 2010, the Federal Election Commission (the "Commission") notified your clients, Alan Grayson and the Committee to Elect Alan Grayson and Paul Ashcraft, in his official capacity as Treasurer, of a complaint alleging that your clients violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was provided to your clients at that time.

After reviewing the allegations contained in the complaint, your clients' responses, and publicly available information, the Commission, on October 19, 2010, found reason to believe that Alan Grayson and the Committee to Elect Alan Grayson and Paul Ashcraft, in his official capacity as Treasurer, violated 2 U.S.C. § 441i(e), a provision of the Act. Further, on November 16, 2010, the Commission approved the attached Factual and Legal Analysis, which sets forth the basis for the Commission's determination, and conciliation agreement.

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.



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In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. We look forward to your response.

On behalf of the Commission,



Matthew S. Petersen
Chairman

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Congressman Alan Grayson MUR: 6268
 Committee to Elect Alan Grayson and
 Paul Ashcraft, in his official capacity
 as treasurer

I. GENERATION OF MATTER

 This matter was generated by a complaint filed by Steve Gillespie. *See* 2 U.S.C. § 437(g)(a)(1).

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

 Alan Grayson was first elected in 2008 to the U.S. House of Representatives from Florida's 8th Congressional District and was a candidate for reelection in 2010. His authorized committee is the Committee to Elect Alan Grayson and Paul Ashcraft, in his official capacity as treasurer (the "Committee"). On March 21, 2010, the Committee sent an e-mail from the address alangrayson@graysonforcongress.com to an unknown number of persons on a distribution list, inviting them to a March 25, 2010 fundraising reception benefitting Scott Maddox, a candidate for Florida Commissioner of Agriculture & Consumer Services. *See* Attachment 1.

 The e-mail invited recipients to "Please Join Congressmnn Alan Grayson" at the reception, but also noted that he might not be in attendance if there were votes scheduled in the U.S. House of Representatives that day. Complaint at 3. The invitation suggested a \$500 contribution, noting that "[c]ontributions are limited to \$500 per person or *corporate entity*. The maximum contribution for an individual, *corporation*, PAC or trust is \$500 for the primary and \$500 for the general (\$1,000 for the entire cycle) [emphasis added]." *Id* at 1. It also provided instructions on how to send contributions and identified a web page specifically dedicated to

1 making contributions. The invitation included a disclaimer stating that it was a political
2 advertisement paid for and approved by Scott Maddox, and that the purchase of a ticket for, or
3 contribution to, the event would constitute a contribution to Maddox. *Id.* Following the
4 invitation, there is an additional disclaimer on the e-mail reading, "Political Advertisement Paid
5 for and Approved by Alan Grayson, Democrat, for U.S. Congress, Florida District 8."

6 Attachment 1. Complainant alleges that by emailing this invitation, Congressman Grayson and
7 the Committee solicited prohibited contributions on behalf of a non-federal candidate, in
8 violation of 2 U.S.C. § 441i(e)(1) and 11 C.F.R. § 300.62.

9 While Respondents acknowledge that the invitation constituted a solicitation, they
10 dispute any liability under the Act. Response at 7. Respondents assert that Congressman
11 Grayson gave the host committee permission to use his name subject to his final approval of the
12 invitation, but that he never gave such final approval. Instead, they maintain that when a
13 Committee volunteer forwarded a draft of the invitation to Congressman Grayson on March 20,
14 2010, the Congressman asked whether the invitation required a disclaimer regarding his
15 participation in the event. On March 21, 2010, the Committee volunteer forwarded a revised
16 invitation to the campaign vendor for distribution without first inquiring about the need for a
17 disclaimer or obtaining Congressman Grayson's final approval. Response at 4-5. Respondents
18 acknowledge, however, that the Congressman saw the revised invitation on March 24, 2010, the
19 day before the event. Congressman Grayson, who did not attend the event due to a vote in
20 Congress, did not attempt to retract the invitation, and the Committee posted the invitation on its
21 website, without modification, for several months following the event.

22 Respondents assert that application of the law in effect at the time of the activity
23 demonstrates that Congressman Grayson "may not be held responsible for any violation of

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1 2 U.S.C. § 441i(e)(1) that may have occurred in connection with the Maddox fundraising event.”
2 Response at 6. Further, Respondents maintain that “given the confused state of the law prior to
3 the Commission’s recent adoption of a new rule governing a Federal officeholder’s participation
4 in a non-federal fundraising event, any attempt to hold [Respondents] responsible for any
5 violation of 2 U.S.C § 441i(e)(1) that may have occurred prior to the issuance of the new final
6 rule,” would raise constitutional concerns. *Id. See also* Participation by Federal Candidates and
7 Officeholders at Non-Federal Fundraising Events, 75 Fed. Reg. 24375 (May 5, 2010) (“E&J”).
8 Respondents accordingly request that the Commission either find no reason to believe that such
9 violation occurred or, alternatively, exercise its prosecutorial discretion and dismiss this matter.

10 **B. Legal Analysis**

11 Under the Federal Election Campaign Act of 1971, as amended (“the Act”), candidates or
12 individuals holding federal office, or their agents (collectively, “covered persons”) may not
13 solicit funds in connection with a non-federal election unless the funds comply with the source
14 restrictions for contributions in connection with a federal election. 2 U.S.C. § 441i(e)(1)(B).
15 Accordingly, covered persons may not solicit corporate contributions in connection with a non-
16 federal election. *See* 2 U.S.C. § 441b(a). Congressman Grayson and the Committee are
17 “covered persons.”

18 The Commission defines “solicitation” as an oral or written communication that,
19 construed as reasonably understood in the context in which it is made, contains a clear message
20 asking, requesting, or recommending that another person make a contribution, donation, transfer
21 of funds, or otherwise provide anything of value. 11 C.F.R. § 300.2(m). Commission
22 regulations provide specific examples of solicitations, including communications that provide

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1 instructions on how or where to send contributions or that identify a website specifically
2 dedicated to facilitating the making of contributions. 11 C.F.R. § 300.2(m)(1)(ii)-(iii).

3 The Committee's March 21, 2010 e-mail communication constitutes a solicitation. In
4 addition to suggesting a specific contribution amount per person or corporate entity, it informs
5 recipients to make checks payable to the "Scott Maddox Campaign" and provides the website
6 address www.scottmaddox.com/contribute to contribute online. Because the e-mail was sent
7 from alanguayson@graysonforcongress.com and contains a disclaimer that the communication is
8 a "[p]olitical advertisement Paid for and Approved by Alan Grayson, Democrat, for U.S.
9 Congress," the communication is a solicitation for prohibited contributions by Congressman
10 Grayson and his Committee. Indeed, Respondents concede that the invitation "clearly did
11 constitute a solicitation because it expressly requested corporate contributions prohibited by 2
12 U.S.C. § 441b(a)." Response at 7.

13 Both 2 U.S.C. § 441i(e)(1) and 11 C.F.R. § 300.62 plainly prohibit solicitations of
14 prohibited contributions by covered persons. Likewise, in Advisory Opinion 2003-36
15 (Republican Governors Association), the Commission stated that it "wishes to make clear that
16 the covered individual may not approve, authorize, agree, or consent to appear in publicity that
17 would constitute a solicitation by the covered person of funds that are in excess of the limits or
18 prohibitions of the Act, regardless of the appearance" of a disclaimer limiting the solicitation to
19 federally-compliant funds. AO 2003-36 at 6, fn 9.¹ Since the pre-event publicity in this matter
20 was disseminated by a covered person, it violated both the statute and the regulation, and a

¹ See also Advisory Opinion 2007-11 (California State Party Committees); Notice of Proposed Rulemaking, Participation by Federal Candidates and Officeholders at Non-Federal Fundraising Events, 74 Fed. Reg. 64016, 64018 (December 7, 2009) ("NPRM") (Federal candidates and officeholders may not solicit funds in excess of the amount limitations and source prohibitions of the Act and then qualify that impermissible solicitation with a limiting disclaimer.)

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1 disclaimer limiting the solicitation to federally-compliant funds would not have cured the
2 violation.²

3 Furthermore, Respondents' assertion that the Congressman never gave his final
4 authorization for the invitation does not resolve the issue. While conceding that section 441i(e)
5 applies to "agents" of federal officeholders, Respondents maintain that the campaign volunteer
6 who gave the invitation to the e-mail vendor acted in contravention of Congressman Grayson's
7 instructions, and therefore was not the Congressman's "agent." Response at 8-9.

8 Commission regulations, however, define "agent" as any person who has actual authority,
9 either express or implied, to solicit, receive, direct, transfer, or spend funds in connection with
10 any election on behalf of a federal candidate or officeholder. 11 C.F.R. § 300.2(b)(3). In its
11 Revised Explanation and Justification for "Definitions of 'Agent' for BCRA Regulations on
12 Non-Federal Funds or Soft Money and Coordinated and Independent Expenditures," 71 Fed.
13 Reg. 4975. (January 31, 2006) ("2006 E&J"), the Commission pointed out that the definition
14 applies to the solicitation of funds generally, and therefore campaign volunteers often fall within
15 this definition.³ *Id.* at 4977. Moreover, the Commission indicated that if an act is within the
16 agent's scope of actual authority, the principal could be liable for an activity undertaken by the
17 agent despite contrary specific instructions by the principal. *Id.* at 4978.

² Respondents' argument as to "the confused state of the law" prior to the issuance of the Commission's new rules, *see* E&J, is not persuasive in this matter. The Commission's previous guidance on federal officeholder participation in non-federal fundraising events – which Respondents argue is "vague" and "muddled," and which the Commission superseded in its new rules – addressed fact patterns that are fundamentally different from the facts presented in this matter. Unlike this previous guidance, which applied to situations in which non-covered persons disseminated publicity containing a covered person's name, this matter involves a covered person actually disseminating the publicity.

³ The Commission's 2006 E&J also specifically recasts its previous reasoning on the concern that a "rogue or misguided volunteer" might potentially create liability for candidates or party committees, as the U.S. District Court for the District of Columbia in *Shays v. FEC*, 337 F. Supp. 2d 28 (D.D.C. 2004), found that this reliance was "not supported by the law of agency." 71 Fed. Reg. 4976, 4980 (quoting *Shays v. FEC* at 87).

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1 Notwithstanding Respondents' assertions, it appears that the campaign volunteer was an
2 agent of the Congressman and the Committee. Based on the facts presented in the response, it
3 appears that the Committee designated the volunteer as the point of contact to the campaign
4 vendor, and gave unrestricted access to its e-mail and computer systems. Additionally, it appears
5 Respondents gave the volunteer express actual authority to negotiate the invitation with the host
6 committee. This express actual authority, combined with access to the campaign vendor,
7 provides a sufficient basis to conclude that the volunteer had authority to approve the invitation
8 and send it to the campaign vendor.⁴

9 Even if the volunteer lacked actual authority to approve the invitation's dissemination on
10 May 21, 2010, this dissemination was not an isolated incident. According to Respondents,
11 Congressman Grayson reviewed the invitation the day before the event, when a reporter
12 presented him with the complaint in this matter. However, despite the fact that the event had not
13 yet occurred, it does not appear that he attempted to retract or correct the invitation. Moreover,
14 the Committee posted the invitation, without modification, on the Committee's website for an
15 extended period of time, at least until July 1, 2010. Therefore, the Congressman and the
16 Committee, covered persons, bear responsibility for the dissemination of the invitation soliciting
17 prohibited contributions in connection with a non-federal election.

18 Based on the information provided in the complaint and response, it appears that the
19 Congressman and the Committee solicited corporate contributions in connection with a non-
20 federal election. Accordingly, the Commission finds reason to believe that Alan Grayson and the

⁴ Actual authority can be implied from words or conduct between the principal and the agent outside of an express agreement, and can arise from custom or usage or as incidental to express authority. That is, implied authority can arise as a natural and general consequence of the express authority granted. See Restatement (Second) of Agency, § 35.

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- 1 Committee to Elect Alan Grayson and Paul Ashcraft, in his official capacity as treasurer, violated**
- 2 2 U.S.C. § 441i(e)(1).**

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUN 14 2011

Steve Gillespie

Celebration, FL 34747

RE: MUR 6268

Dear Mr. Gillespie:

This is in reference to the complaint you filed with the Federal Election Commission on April 1, 2010, concerning Alan Grayson and the Committee to Elect Alan Grayson and Paul Ashcraft, in his official capacity as treasurer. The Commission found that there was reason to believe Alan Grayson and the Committee to Elect Alan Grayson and Paul Ashcraft, in his official capacity as treasurer, violated 2 U.S.C. § 441i(e), a provision of the Federal Election Campaign Act of 1971, as amended. On June 10, 2011, a conciliation agreement signed on behalf of the respondents was accepted by the Commission. Accordingly, the Commission closed the file in this matter on June 10, 2011.

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) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). A copy of the agreement with Alan Grayson and the Committee to Elect Alan Grayson and Paul Ashcraft, in his official capacity as treasurer, is enclosed for your information.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Margaret Ritzert
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
)	MUR 6268
Alan Grayson)	
Committee to Elect Alan Grayson and)	
Paul Ashcraft, in his official capacity)	
as treasurer)	

RECEIVED
FEDERAL ELECTION
COMMISSION
2011 MAY 24 PM 1:04
OFFICE OF GENERAL
COUNSEL

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint by Steve Gillespie.

The Federal Election Commission ("Commission") found reason to believe that Alan Grayson and the Committee to Elect Alan Grayson and Paul Ashcraft, in his official capacity as treasurer, (collectively, "Respondents") violated 2 U.S.C. § 441 i(e).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Alan Grayson, formerly a member of the U.S. House of Representatives from Florida's 8th Congressional District, was a candidate for reelection in 2010.

1 2. The Committee to Elect Alan Grayson and Paul Ashcraft, in his official capacity as
2 treasurer, ("Committee") is former Representative Grayson's authorized principal campaign
3 committee.

4 3. On March 21, 2010, the Committee sent an e-mail forwarding the invitation prepared
5 by the Maddox host committee from the address alangrayson@graysonforcongress.com to an
6 unknown number of persons on a distribution list, inviting them to "Please Join Congressman
7 Alan Grayson" at a March 25, 2010 fundraising reception benefitting Scott Maddox, a candidate
8 for Florida Commissioner of Agriculture & Consumer Services. The invitation suggested a \$500
9 contribution, noting that "[c]ontributions are limited to \$500 per person or corporate entity. The
10 maximum contribution for an individual, corporation, PAC, or trust is \$500 for the primary and
11 \$500 for the general (\$1,000 for the entire cycle)." It also provided instruction on how to send
12 contributions and identified a web page specifically dedicated to making contributions.

13 4. The e-mail contained two different disclaimers. First, the invitation included a
14 disclaimer stating that it was a political advertisement paid for and approved by Scott Maddox,
15 and that the purchase of a ticket for, or contribution to, the event would constitute a contribution
16 to Maddox. Following the invitation, there was an additional disclaimer on the e-mail reading,
17 "Political Advertisement Paid for and Approved by Alan Grayson, Democrat, for U.S. Congress,
18 Florida District 8."

19 5. Representative Grayson, who did not attend the event due to a vote in Congress on
20 March 25, 2010, only learned of the final invitation on March 24, 2010, the day before the event,
21 when a reporter sent him a copy of the complaint in this matter. On March 24, 2010, the House
22 was in session, there were nine roll-call votes, and Rep Grayson's committees held three
23 hearings. On March 25, 2010, there again were nine roll-call votes, and there was a Financial
24 Services Committee hearing and a markup and further voting in the Science and Technology

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1 Committee. On March 24 and 25, 2010, Rep. Grayson took no action to retract or modify the
2 solicitation of corporate funds. In addition, the Committee posted the invitation on its website,
3 without modification, and let it remain there for several months following the event.

4 Respondents contend that the failure to remove the invitation from the website was inadvertent.

5 6. The Federal Election Campaign Act of 1971, as amended, ("the Act") prohibits
6 candidates or individuals holding federal office, or their agents, (collectively, "covered persons")
7 from soliciting funds in connection with a non-federal election unless the funds comply with the
8 source restrictions for contributions in connection with a federal election. 2 U.S.C.

9 § 441i(e)(1)(B), 11 C.F.R. § 300.62. The term "agent" means "any person who has actual
10 authority, express or implied, to" solicit funds on behalf of an individual who is a federal
11 candidate or a federal officeholder in connection with any election. 11 C.F.R. § 300.2(b)(3).

12 Accordingly, covered persons may not solicit corporate contributions in connection with a non-
13 federal election. See 2 U.S.C. § 441b(a). The covered individual may not approve, authorize,
14 agree, or consent to appear in publicity that would constitute a solicitation by the covered person
15 of funds that are in excess of the limits or prohibitions of the Act, regardless of the appearance of
16 a disclaimer limiting the solicitation to federally-compliant funds. Advisory Opinion 2003-36
17 (Republican Governors Association). See also Participation by Federal Candidates and
18 Officeholders at Non-Federal Fundraising Events, 75 Fed. Reg. 86, 24375, 24381-83
19 (May 5, 2010) (issued subsequent to the activity at issue in this matter).

20 7. Commission regulations define "solicitation" as an oral or written communication
21 that, construed as reasonably understood in the context in which it is made, contains a clear
22 message asking, requesting, or recommending that another person make a contribution, donation,
23 transfer of funds, or otherwise provide anything of value. 11 C.F.R. § 300.2(m). Commission
24 regulations provide specific examples of solicitations, including communications that provide

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1 instructions on how or where to send contributions or that identify a website specifically
2 dedicated to facilitating the making of contributions. 11 C.F.R. 300.62(m)(1)(ii)-(iii).

3 8. Respondents contend that:

4 The Grayson campaign volunteer who authorized the distribution of the March 21, 2010
5 e-mail did not have the actual authority, express or implied, to do so without Rep. Grayson's
6 prior express approval. Accordingly, Respondents contend that Rep. Grayson may not be held
7 personally liable for the original March 21, 2010 e-mail solicitation.

8 On March 11, 2010, a member of the host committee invited Rep. Grayson to attend a
9 March 25, 2010 fundraising event for Scott Maddox, a Democratic candidate for Commissioner
10 of Agriculture and Consumer Services, a state-wide office in Florida. Rep. Grayson responded
11 that he would not be able to attend because Congress would be in session that day, but he gave
12 the host committee permission to use his name in connection with the event subject to his prior
13 approval of the invitation to the Maddox event.

14 On March 20, 2010, the Grayson campaign received a draft of the invitation to the
15 Maddox event. A Grayson campaign volunteer forwarded the draft invitation to Rep. Grayson
16 for his approval. Rep. Grayson responded by asking whether the invitation needed to have a
17 disclaimer. Rep. Grayson also asked that the invitation be changed to inform recipients that he
18 would not be able to attend if Congress was in session that day.

19 On March 21, 2010, the Grayson campaign volunteer asked the Maddox host committee
20 to change the invitation to let people know that Rep. Grayson would not be able to attend the
21 event if votes were scheduled that day in Washington. The Grayson campaign volunteer failed
22 to ask the Maddox committee to respond to Rep. Grayson's request for information as to whether
23 a disclaimer was needed.

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1 The Maddox host committee responded to the Grayson campaign volunteer later on
2 March 21, 2010 with a revised version of the invitation. The Grayson campaign volunteer never
3 forwarded the revised version of the invitation to Rep. Grayson for his final review and approval.
4 The Grayson campaign volunteer forwarded the revised version of the invitation to a campaign
5 vendor who managed the Grayson campaign's e-mail list and asked the vendor to distribute the
6 invitation to e-mail subscribers in the Winter Park, Florida area where the event was scheduled to
7 be held.

8 Respondents contend that at all times they acted in good faith and that any violation of
9 the Act that may have occurred was unintentional.

10 V. 1. Respondent Committee violated 2 U.S.C. § 441i(e) by disseminating a
11 solicitation for corporate contributions in connection with a non-federal election. The
12 Commission did not find that the Committee's violation of 2 U.S.C. § 441i(e) was knowing and
13 willful.

14 2. Respondent Grayson will not further dispute the Commission's finding that
15 there is reason to believe that Rep. Grayson violated 2 U.S.C. § 441i(e). A reason to believe
16 finding is not a finding that the Respondents violated the Act, but simply means that the
17 Commission believes a violation may have occurred. The Commission did not find that any
18 violation that may have occurred was knowing and willful. This conciliation agreement, unless
19 violated, is a complete bar to any further Commission action against Respondents in connection
20 with the facts underlying this matter. *See* 2 U.S.C. § 437g(a)(4).

21 VI. 1. The Committee to Elect Alan Grayson will pay a civil penalty to the
22 Commission in the amount of \$4,125, pursuant to 2 U.S.C. § 437g(a)(5)(B).

23 2. Respondents will cease and desist in committing violations of
24 2 U.S.C. § 441i(e).

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1 VII. The Commission, on request of anyone filing a complaint under
2 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review
3 compliance with this agreement. If the Commission believes that this agreement or any
4 requirement thereof has been violated, it may institute a civil action for relief in the United States
5 District Court for the District of Columbia.

6 VIII. This agreement shall become effective as of the date that all parties hereto have
7 executed same and the Commission has approved the entire agreement.

8 IX. Respondents shall have no more than 30 days from the date this agreement becomes
9 effective to comply with and implement the requirements contained in this agreement and to so
10 notify the Commission.

11 X. This Conciliation Agreement constitutes the entire agreement between the parties on
12 the matters raised herein, and no other statement, promise, or agreement, either written or oral,
13 made by either party or by agents of either party, that is not contained within this written
14 agreement shall be enforceable.

15 FOR THE COMMISSION:

16 Christopher Hughey
17 Acting General Counsel

18 BY: Kathleen Guith
19 Kathleen Guith
20 Acting Associate General Counsel
21 For Enforcement

6-13-11
Date

22 FOR THE RESPONDENTS:

23 Brett Kappel
24 Brett Kappel
25 Counsel

5/24/11
Date