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FEDERAL ELECTION COMMISSION  
Washington, DC

**AGENDA DOCUMENT NO. 24-25-A**  
**AGENDA ITEM**  
**For meeting of July 25, 2024**  
**Submitted Late**

July 19, 2024

**MEMORANDUM**

TO: The Commission

FROM: Lisa J. Stevenson *NFS for LJS*  
Acting General Counsel

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Associate General Counsel

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Assistant General Counsel

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Attorney

Subject: AO 2024-08 (Bob Good and Good for Congress) – Draft A

Attached is a proposed draft of the subject advisory opinion. We have been asked to place this draft on the Agenda by one or more Commissioners.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 12:00 pm (Eastern Time) on Wednesday, July 24, 2024.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <https://www.fec.gov/legal-resources/advisory-opinions-process/>.

Attachment

1 ADVISORY OPINION 2024-08

2

3 David Dolan

4 Good for Congress

5 P.O. Box 117

6 Lovington, VA 22949--117

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8 Dear Mr. Dolan:

9

10 We are responding to your advisory opinion request on behalf of Representative  
11 Bob Good and Good for Congress (collectively, “Requestors”), concerning the  
12 application of the Federal Election Campaign Act, 52 U.S.C. §§ 30101-45 (the “Act”),  
13 and Commission regulations to Requestors’ proposal to seek contributors’ redesignations  
14 of general election contributions to a recount fund established by Good for Congress.  
15 The Commission concludes that Requestors may seek contributors’ redesignation of  
16 general election contributions to Good for Congress’s recount fund as proposed.

17 ***Background***

18 The facts presented in this advisory opinion are based on your letter received on  
19 July 2, 2024.

20 Rep. Bob Good represents Virginia’s 5<sup>th</sup> Congressional District in the United  
21 States House of Representatives, and Good for Congress is his principal campaign  
22 committee. Rep. Good was a candidate for the Republican nomination in the primary  
23 election for that office that was held on June 18, 2024. Based on the results of the  
24 primary election, Rep. Good will likely seek a recount, and because he will incur  
25 expenses relating to a recount, Good for Congress is establishing a recount fund.

26 Good for Congress has spent almost all of its primary election funds, and retains  
27 contributions designated for the general election. Requestors propose to ask the  
28 contributors of those general election contributions to redesignate their contributions for

**DRAFT A**

1 the recount fund. Requestors state that they will comply with all required procedures for  
2 redesignations, including requesting redesignation from each contributor in writing,  
3 informing each contributor of the contributor’s right to receive a refund instead of  
4 redesignating, and completing all redesignations within 60 days of the date of the primary  
5 election.

6 ***Question Presented***

7 *May Good for Congress seek permission from its general election contributors to*  
8 *redesignate their contributions from the general election to its recount fund, and then*  
9 *redesignate funds from those contributors who grant such permission?*

10 ***Legal Analysis***

11 Yes, Good for Congress may seek permission from its general election  
12 contributors to redesignate their contributions from the general election to its recount  
13 fund, and then redesignate funds from those contributors who grant such permission, as  
14 proposed.

15 The Act’s limitations on contributions made to a candidate for federal office apply  
16 separately with respect to each election.<sup>1</sup> Commission regulations provide that a  
17 candidate or authorized committee may, prior to a primary election, accept contributions  
18 designated by the contributor for use in connection with the general election.<sup>2</sup> But, “[i]f

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<sup>1</sup> 52 U.S.C. § 30116(a)(1)(i); 11 C.F.R. § 110.1(b)(2).

<sup>2</sup> 11 C.F.R. §§ 102.9(e), 110.1(b)(2), 110.2(b)(2).

1 a candidate is not a candidate in the general election, any contributions made for the  
2 general election shall be refunded to the contributors, redesignated . . . or reattributed.”<sup>3</sup>

3 In addition, the treasurer of an authorized committee may “request a written  
4 redesignation of a contribution by the contributor for a different election” when the  
5 contribution was designated for a particular election but received after that election, or  
6 when the contribution is excessive on its face or when aggregated with other  
7 contributions from the same contributor.<sup>4</sup> A contribution is considered redesignated if  
8 the authorized committee requests a written redesignation from the contributor, informs  
9 the contributor of the contributor’s right to receive a refund of the contribution as an  
10 alternative to redesignating it, and receives the contributor’s redesignation in writing  
11 within 60 days after receiving the original contribution.<sup>5</sup>

12 Although Commission regulations speak in terms of redesignating contributions  
13 “for a different election,”<sup>6</sup> Requestors propose to request redesignations for a recount of  
14 the results of an election. Election recounts are not “elections” under the Act or

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<sup>3</sup> *Id.* § 102.9(e)(3); *see also id.* § 110.1(b)(3)(i) (“If the candidate is not a candidate in the general election, all contributions made for the general election shall be either returned or refunded to the contributors or redesignated . . . , or reattributed . . . , as appropriate.”). As the Commission has explained, “where a general election is held, but the candidate does not participate in that election, no separate contribution limit for that general election is available to contributors.” Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and Multicandidate Political Committees, 52 Fed. Reg. 760, 761 (Jan. 9, 1987) (internal citations omitted).

<sup>4</sup> 11 C.F.R. § 110.1(b)(3)(i), (b)(5)(i).

<sup>5</sup> *Id.* § 110.1(b)(5)(ii). The Commission has concluded that a political committee may obtain redesignations of contributions more than 60 days after their receipt if the redesignations are due to a later event. *See* Advisory Opinion 2009-15 (Bill White for Texas) at 7.

<sup>6</sup> 11 C.F.R. § 110.1(b)(5)(i); *see also id.* § 110.1(b)(5)(ii)(A), (iii) (referring to redesignation “for another election”).

1 Commission regulations.<sup>7</sup> Indeed, Commission regulations expressly exempt funds  
2 raised and spent for recounts from the definitions of “contribution” and “expenditure.”<sup>8</sup>

3         Neither the Act nor Commission regulations expressly provide for the  
4 redesignation of contributions for a recount of an election, and the Commission has not  
5 previously considered whether an authorized committee may obtain such redesignations.  
6 That said, nothing in the Act or Commission regulations would prohibit such  
7 redesignations. Indeed, if it is ultimately determined that Rep. Good did not win the  
8 primary election, Requestors will be required to refund any general election contributions  
9 already received or seek their redesignation or reattribution.<sup>9</sup> Further, the Commission  
10 has previously concluded that authorized committees could request the redesignation of  
11 contributions in circumstances not addressed in Commission regulations, such as for use  
12 in a potential special election and special election runoff,<sup>10</sup> and where the redesignations  
13 would not be received within 60 days after the committees’ receipt of the original  
14 contributions,<sup>11</sup> so long as the redesignations otherwise complied with the regulatory  
15 requirements for redesignations.

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<sup>7</sup> See 52 U.S.C. § 30101(1); 11 C.F.R. § 100.2.

<sup>8</sup> 11 C.F.R. §§ 100.91, 100.151.

<sup>9</sup> See Advisory Opinion 2015-16 (Niger Innis for Congress) at 3-4.

<sup>10</sup> Advisory Opinion 2009-15 (Bill White for Texas).

<sup>11</sup> Advisory Opinion 2022-18 (Fleming *et al.*). Consistent with the Commission’s previous conclusion that “a political committee may receive redesignations of contributions more than 60 days after the committee’s receipt of the contributions, if there is a later event giving the committee notice of a reason to seek redesignation,” *id.* at 4, Requestors state that they will complete all redesignations within 60 days of the primary election.

1           The Commission has also previously concluded in Advisory Opinion 2006-24  
2 (Republican and Democratic Senatorial Committees) that a recount of the votes cast in a  
3 federal election is “in connection with an election for federal office” under the Act.<sup>12</sup> Any  
4 entity directly or indirectly established, financed, maintained or controlled by, or acting  
5 on behalf of, one or more federal officeholders or candidates may not solicit, receive,  
6 direct, transfer, or spend funds “in connection with an election for Federal office” unless  
7 the funds are subject to the limitations, prohibitions, and reporting requirements of the  
8 Act.<sup>13</sup> But because general election contributions redesignated by contributors for  
9 Requestors’ recount fund will comply with the Act’s amount limitations and source  
10 prohibitions, the Commission need not reaffirm or reconsider its conclusion from  
11 Advisory Opinion 2006-24 (Republican and Democratic Senatorial Committees).<sup>14</sup>  
12 Regardless of whether it applies, Requestor’s proposal is permissible.

13           Accordingly, the Commission concludes that Good for Congress may seek  
14 permission from its general election contributors to redesignate their contributions from  
15 the general election to its recount fund, and then redesignate funds from those  
16 contributors who grant such permission, as proposed.

17           This response constitutes an advisory opinion concerning the application of the  
18 Act and Commission regulations to the specific transaction or activity set forth in your

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<sup>12</sup> Advisory Opinion 2006-24 (Republican and Democratic Senatorial Committees) at 4.

<sup>13</sup> 52 U.S.C. § 30125(e)(1)(A).

<sup>14</sup> Advisory Opinion 2006-24 (Republican and Democratic Senatorial Committees) at 4; *see also* Advisory Opinion 2019-02 (Bill Nelson for Senate) at 3.

1 request.<sup>15</sup> The Commission emphasizes that, if there is a change in any of the facts or  
2 assumptions presented, and such facts or assumptions are material to a conclusion  
3 presented in this advisory opinion, then Requestors may not rely on that conclusion as  
4 support for their proposed activity. Any person involved in any specific transaction or  
5 activity which is indistinguishable in all its material aspects from the transaction or  
6 activity with respect to which this advisory opinion is rendered may rely on this advisory  
7 opinion.<sup>16</sup> Please note that the analysis or conclusions in this advisory opinion may be  
8 affected by subsequent developments in the law including, but not limited to, statutes,  
9 regulations, advisory opinions, and case law. Any advisory opinions cited herein are  
10 available on the Commission's website.

11 On behalf of the Commission,

12

13 Sean J. Cooksey,

14 Chairman

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<sup>15</sup> See 52 U.S.C. § 30108.

<sup>16</sup> See *id.* § 30108(c)(1)(B).