

COMMITTEE TO ELECT ALAN GRAYSON
9477 Westover Club Circle
Windermere, FL 34786

July 28, 2019

BY E-MAIL

Jeff Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
Washington, DC 20463
CELA@fec.gov

RE: **RR 19L-07**

Dear Mr. Jordan (and Ms. Dennis):

This is the response of the Committee to Elect Alan Grayson (“Committee”) to your letter of April 8, 2019. Per Ms. Dennis’s communications with former Rep. Grayson, the deadline for this response has been extended, and this response is submitted on time.

Your letter raises several issues. Our brief response, followed by additional detail, is as follows: The Committee’s July 2016 Quarterly Report was substantially incomplete because of what appears to have been a very regrettable psychiatric problem on the part of the Committee’s bookkeeper, Dustin Andersen, which required hospitalization, as well as unusual software problems that took several weeks to resolve. Mr. Andersen failed to advise the Committee of his personal problem until well after the incomplete report had been filed. After it learned of this grave problem, the Committee relieved Mr. Andersen of his responsibilities. In due course, the Committee filed the corrective report that resulted in your letter.¹

¹ The statement in your letter appears to be primarily based on shortcomings in the original report, not the amended versions.

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In the interim, the Committee advised the FEC in correspondence that corrective action was underway. In short, the Committee recognized the problem that Mr. Andersen's tragic personal condition had created, accepted responsibility for it and, over time, took the action needed to solve that problem.

Regarding the apparent excess contributions for the 2016 Primary Election noted in your letter, these contributions were supposed to be re-designated for other election periods long ago, and it has been our understanding that they were. The same thing is true of 2016 General Election contributions, which generally were to be re-designated (with contributor consent) for the 2018 Primary Election, in which Rep. Grayson was a U.S. Senate candidate. Again, it is our understanding that this already has been accomplished, but if this understanding is incorrect, then we will amend the relevant reports accordingly.

There have been open lines of communication between the Committee and the FEC since these problems arose. The Committee appreciates the consideration that the FEC already has shown in these matters.

By way of background, Rep. Grayson was initially elected to Congress in 2008. After he took office, his Congressional bookkeeping and his campaign and financial reporting were overseen by T. Ed Anfinson and Mr. Anfinson's wife, Susan Anfinson, respectively. The Committee's understanding was that Dustin Andersen was an employee of an Anfinson-owned entity, FEC Compliance, Inc., and he was assigned to serve the Committee's account. At that time, Mr. Andersen was located in the Washington, D.C. metropolitan area. Mr. Andersen became the Committee Treasurer on or about July 22, 2011, as reflected in an FEC filing. Mr. Todd Jurkowski substituted for Mr. Andersen as Treasurer on Dec. 5, 2011, but Mr. Andersen continued to prepare and file the Committee's FEC reports, and the Committee records remained in the custody of Andersen's employer FEC Compliance, Inc.

Over time, Mr. Anfinson chose to concentrate on the reporting of official Congressional expenses, rather than campaign expenses. Mr. Andersen "set up shop" separately from the Anfinsons. His address was P.O. Box 224, Catlett, VA 20119. On Sept. 17, 2015, Mr. Andersen resumed as Treasurer of the Committee, and continued as custodian of records. Mr. Andersen then moved away from the D.C. area. His address became 5062 S. 108th Street #285, Omaha, NE 68137. Mr. Andersen was the Committee Treasurer during the entire period in question.

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Rep. Grayson's successful 2012 and 2014 Congressional campaigns were highly unusual, at the time, because of their success in attracting small donations to a Congressional campaign. Eventually, Rep. Grayson attracted more than 100,000 small donors to support his campaigns (between 2006 and 2018). According to published sources, including Politifact, Rep. Grayson's 2012 and 2014 campaigns were the only successful Congressional campaigns in the entire country in which more than half of the money raised was from contributors who donated less than \$200 during the cycle. Furthermore – and this was not publicly known -- in each of those election cycles, more than half of the small contributions came from recurring donations, which must be tracked carefully in order to monitor whether they have cumulatively crossed the \$200 threshold and require individual reporting.

The campaign accounting software available at the time was not conducive to this type of analysis. Therefore, the bookkeeping requirements of the Grayson campaigns were far more difficult than that of a standard Congressional campaign. In essence, Mr. Andersen was reporting for a campaign with Presidential-level complexity, with relatively primitive tools, and only Congressional-level resources available.

During the period in question, Andersen claimed that this led to chaotic results with the campaign reporting software that he used (which we believe to be FECFile), not only with regard to revenue reporting but also with regard to expense reporting. Andersen claimed that he went back and forth with the software provider at length, trying to eliminate “glitches.”

In 2016, including during the period in question, Rep. Grayson ran a U.S. Senate campaign in the same style as his successful 2012 and 2014 Congressional campaigns. The heavy fundraising emphasis of the campaign was in attracting small-dollar donations. In our recollection, once again, more than half of the money raised by the Grayson Senate campaign was from small donors who contributed less than \$200, cumulatively, during the entire cycle.

Unfortunately, apparently due not only to software issues but also due to serious personal problems, the Committee's Treasurer and bookkeeper Mr. Andersen became unable to perform in the same accurate manner as he had for many years

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before.² The Committee's 2015 Year-End and 2016 April Quarterly reports reflected the difficulty of the task, at 1457 pages and 1503 page respectively. Andersen's initial 2016 July Quarterly report, at only 206 pages (if one can use the term "only" in such a way), clearly was incomplete. This was noted almost immediately, not only within the campaign but also in the media.³

It probably is more illuminating simply to quote Andersen's response to the campaign, rather than characterizing it:

Michael [referring to Michael Ceraso, the Campaign Manager] I saw that the FEC report was off, thanks for sending me a text, too. I had my employee go to the printer and fedex office with the correct report. I am trying to contact him now to see what happened and why the hell he submitted a report that wasn't even close to the one we had ready to file with the correct numbers. I'll be in contact with you shortly.

Thanks. Dustin⁴

The Campaign Manager informed Rep. Grayson that the issue would be resolved "by the end of the day." It was not. On August 1, 2016, Andersen reported to Rep. Grayson, "I am continuing to work as fast as possible on the report to get it corrected. There was a lot more missing than I thought but it [is] my highest priority." On August 15, 2016, Anderson reported to Rep. Grayson, "Still isn't done, they told me they are working hard to get it done soon. Just wanted to give

² Andersen also was responsible for paying certain accounts payable from campaign accounts, and rendering periodic internal financial reports. Andersen also failed to do these tasks properly during this period, which resulted in further dislocations for the campaign. At an earlier time, Andersen had been reachable by phone, and responded quickly to e-mails. At this time, however, Andersen often was not reachable by phone, and did not respond quickly to e-mails or to text messages. (Indeed, some e-mails started to "bounce back.")

³ <https://miamiherald.typepad.com/nakedpolitics/2016/07/glitch-causes-alan-grayson-to-file-false-fundraising-report.html>. The 2016 July Quarterly report also prompted a Request for Additional Information from the FEC, on August 14, 2016.

⁴ The Committee does not know to whom the term "my employee" refers. The Committee did not deal with any Andersen employees.

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you an update. Thanks. Dustin.”⁵ On August 24, 2016, Rep. Grayson said to Andersen, “I cannot overemphasize the importance that you clean up this mess right now.” Andersen responded to Rep. Grayson, “Congressman[:] The software wasn’t allowing me to pull expenses on the report again. The issues have been fixed and I’ll get [it] completely finish[ed] and filed by next week and make sure they are accurate. I can’t express how embarrassed and sorry I am for these software issues. I hope you understand the position I am in with the software issues and know I’m working to get everything finished soon. Thanks. Dustin.”

To his credit, Andersen then did file an amended 2016 July Quarterly report, with 2789 pages, five days later on August 29, 2016.⁶ This, however, resulted in a second (and longer) FEC Request for additional information, on Sept. 29, 2016.

The campaign believed, correctly or incorrectly, that Andersen was able to take the further corrective steps needed. He did not. On the contrary, in October 2016, Mr. Andersen missed the deadline for an FEC filing for Rep. Grayson’s wife Dena, who had run a separate federal campaign. (Afterward, Andersen said “I never meant for any of this to happen.”)

After Andersen filed his amended report, he disclosed to the campaign that he had been hospitalized. On Oct. 19, 2016, he informed Rep. Grayson that he expected to be released from the hospital that day. On Oct. 26, 2016, at 12:40 am, he texted to Ms. Grayson:

I have left you and Alan down in so many ways, it makes me sick just thinking about it. . . . Please know I never meant for any of this to happen but it’s what’s been thrown at me. I can’t imagine what it’s doing to you guys on your political levels and I’m truly and deeply sorry. Again I apologize and I’m trying to get things back in order. I’ve been a failure to you guys.

⁵ Grayson believed that Anderson’s reference to “they” referred to the software provider. As noted above, Grayson believed that the software Anderson was using was FECFile.

⁶ The Committee respectfully asks the FEC to consider this, in context, as a good-faith effort by Andersen to do the best he could at the time.

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On Nov. 13, 2016, Andersen told Rep. and Ms. Grayson, “I am very sorry for the lack of communication lately. I’ve been very sick again lately and trying to get everything back in order. I understand this does nothing for you as far as getting the back logs filed but I’m really trying.”

With no further progress made,

, on Dec. 1, 2016, the Committee hired Next Level Partners (“NLP”) to file FEC amended reports, and resolve these issues. [At the time, Rep. Grayson bluntly told Mr. Andersen, “the Committee is paying Jennifer [May of NLP] a substantial amount of money simply to do what you didn’t do (or do properly).”] NLP quoted the Committee a firm, fixed price for doing this, which the Committee accepted. NLP’s principal also assumed Andersen’s responsibilities as Treasurer and custodian of records. Over time, however, NLP failed to resolve many of the outstanding issues, despite several reminders from the campaign. The campaign surmises that this may be because NLP “low-balled” the price in its proposal, or it simply did not understand the level of effort that would be required.

After giving NLP substantial time to resolve these issues, and seeing them remain unresolved, the Committee turned to 720 Strategies. (Ms. Star Grayson also ultimately replaced NLP’s principal as Treasurer, and she serves as Treasurer now.) Although 720 Strategies needed time to “get up to speed,” it has made tremendous progress. Among other things, 720 Strategies needed to change the software that was used to generate the FEC reports, and “migrate” the data to that software. The Committee filed an amended report for the 2016 April Quarterly report on May 25, 2018, and it filed an amended report for the 2016 July Quarterly report on August 24, 2018. The current version of the report runs to 4414 pages, in contrast to the 2656 pages of Mr. Andersen’s amended report.⁷

Regarding the re-designation issues raised in the FEC letter, Andersen repeatedly assured Grayson that the excess contribution re-designations and corrections were finished and up-to-date. As for the re-designation of 2016 General Election contributions, Grayson discussed this with Andersen just a few days after the 2016 Primary. Donors were contacted, only one donor requested a refund (which was

⁷ To be fair, some of this may be attributable to providing further information on donors who did not reach the \$200 small-donor threshold, and such further information is not mandatory.

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issued), and Andersen assured Grayson that the rest were re-designated. The Committee was not aware that this might remain an open issue.

This is very sad, and all of the consequences deeply regrettable. The Committee believes that it acted in a responsible manner in dealing with this tragedy, and it hopes that the FEC shares this view. The Committee has devoted substantial resources, time and effort to addressing the resulting issues, and it stands ready to continue to do so. The Committee thanks the FEC, in advance, for its understanding and consideration.

Respectfully submitted,

/s/ Star Grayson

Star Grayson

Treasurer

Committee to Elect Alan Grayson

Mailing address:

9477 Westover Club Circle

Windermere, FL 34786

Encl

Alan Grayson

From: Dustin Andersen <dandersen@feccomplianceinc.com>
Sent: Friday, July 22, 2016 11:02 AM
To: Alan Grayson; Michael Ceraso
Subject: FEC Report

Michael I saw that the FEC report was off, thanks for sending me a text, too. I had my employee go to the printer and fedex office with the correct report. I am trying to contact him now to see what happened and why the hell he submitted a report that wasn't even close to the one we had ready to file with the correct numbers. I'll be in contact with you shortly.

Thanks. Dustin

Alan Grayson

From: Dustin Andersen <dandersen@anfinsonllc.com>
Sent: Monday, August 01, 2016 10:53 AM
To: Alan Grayson
Subject: FEC Report

I am continuing to work as fast as possible on the report to get it corrected. There was a lot more missing than I thought but it my highest priority.

Dustin

Dustin Andersen
Financial Administrator

Omaha, NE 68137

Alan Grayson

From: Dustin Andersen <dandersen@feccomplianceinc.com>
Sent: Monday, August 15, 2016 10:07 PM
To: Alan Grayson

Still isn't done, they told me they are working hard to get it done soon. Just wanted to give you an update.

Thanks. Dustin

-----Original Message-----

From: Dustin Andersen [mailto:dandersen@feccomplianceinc.com]

Sent: Sunday, November 13, 2016 5:29 PM

To: Dena Grayson

Cc: Alan Grayson; Dustin Andersen; dandersen@anfinsonllc.com

Subject: Re: Report??

I very sorry for the lack of communication lately. I've been very sick again lately and trying to get everything back in order. I understand this does nothing for you as far as getting the back logs filed but I'm really trying. I hope to everything caught up and filed for both of you as soon as possible.

Thanks. Dustin

●●●● AT&T

12:00 PM

96%



Dustin

Wed, Oct 26, 12:40 AM

I have left you and Alan down in so many ways, it makes me sick just thinking about it. I'm trying to get back to things and getting your report filed. Please know I never meant for any of this to happen but it's what's been thrown at me. I can't imagine what it's doing to you guys on your political levels and I'm truly and deeply sorry. Again I apologize and I'm trying to get things back in order. I've been a failure to you guys. Hope you can understand a little bit and give me another shot of doing what I know I am capable of!!!



iMessage



Alan Grayson

From: Dustin Andersen <dandersen@feccomplianceinc.com>
Sent: Wednesday, August 24, 2016 1:45 PM
To: Alan Grayson
Subject: Re: Pre-Primary Report

Congressman

The software wasn't allowing me to pull expenses on the report again. The issues have been fixed and I'll get the completely finish and filed by next week and make sure they are accurate. I can't express how embarrassed and sorry I am for these software issues. I hope you understand the position I am in with the software issues and know that I'm working to get everything finished soon.

Thanks. Dustin