



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA ELECTRONIC MAIL

Star Grayson, Treasurer
Committee to Elect Alan Grayson
9477 Westover Club Circle
Windermere, FL 34786
grayson@glctr.net

January 25, 2021

RE: MUR 7871
Committee to Elect Alan Grayson

Dear Ms. Grayson:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting that the Committee to Elect Alan Grayson and you in your official capacity as treasurer (the "Committee") may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On January 11, 2021, the Commission found reason to believe that the Committee violated 52 U.S.C. §§ 30104(b) and 30116(f) and 11 C.F.R. §§ 102.9(e), 110.1(b)(3), and 110.2(b)(3). The Factual and Legal Analysis, which formed a basis for the Commission's findings, is enclosed for your information.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that the Committee violated the law.

If you are interested in engaging in pre-probable cause conciliation, please contact Kristina M. Portner, the attorney assigned to this matter, at (202) 694-1518 within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at http://www.fec.gov/em/respondent_guide.pdf.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission. We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act.

In addition, 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. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

MUR 7871 (Committee to Elect Alan Grayson)
Page 3

We look forward to your response.

On behalf of the Commission,



Shana M. Broussard
Chair

Enclosures:

1. Factual and Legal Analysis

FEDERAL ELECTION COMMISSION**FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Committee to Elect Alan Grayson and MUR 7871
Star Grayson in her official capacity
as treasurer

I. INTRODUCTION

This matter was generated based on information ascertained by the Federal Election Commission (the “Commission”) in the normal course of carrying out its supervisory responsibilities.¹ The Reports Analysis Division (“RAD”) referred the Committee to Elect Alan Grayson and Star Grayson in her official capacity as treasurer (the “Committee”) to the Office of General Counsel (“OGC”) for potential violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), arising from its failure to timely and accurately disclose \$2,781,157.75 in receipts and disbursements, and for accepting \$164,331.29 in excessive contributions when it failed to timely refund, reattribute, or redesignate contributions from Florida’s 2016 primary election.

The Committee does not deny the errors in its 2016 July Quarterly Report. The Committee explains that its inaccurate reports were the result of the Committee bookkeeper’s health issues, and when it learned of the issues with its reports, it hired a new compliance advisor and devoted substantial resources, time, and effort to addressing the resulting reporting errors.

Based on available information, the Commission finds reason to believe that the Committee to Elect Alan Grayson and Star Grayson in her official capacity as treasurer violated 52 U.S.C. §§ 30104(b) and 30116(f) and 11 C.F.R. §§ 102.9(e), 110.1(b)(3), and 110.2(b)(3) by

¹ See 52 U.S.C. § 30109(a)(2).

1 failing to accurately and timely report receipts and disbursements, and by accepting and failing
2 to remedy excessive contributions.

3 **II. FACTUAL AND LEGAL ANALYSIS**

4 **A. Background**

5 Alan Grayson was a 2016 Senate candidate from Florida.² His authorized Committee has
6 been registered with the Commission since May 2006.³ This matter was referred to OGC for its
7 failure to accurately and timely report receipts and disbursements.⁴ Specifically, the Committee
8 amended its 2016 July Quarterly Report to disclose additional receipts totaling \$969,568.35 and
9 additional disbursements totaling \$965,737.39.⁵ The Committee also amended its 2016 12-Day
10 Pre-Primary Election Report to disclose additional disbursements totaling \$766,205.28.⁶ Finally,
11 the Committee accepted excessive contributions totaling \$125,890.97 for the 2016 Primary
12 Election but failed to timely refund or redesignate those contributions within the permissible
13 timeframe, and received \$38,440.32 in contributions designated for the 2016 General Election
14 and failed to timely refund or redesignate when Grayson lost the 2016 Florida Primary Election.⁷

² Grayson was also a 2020 candidate for Florida's 9th Congressional District, but withdrew prior to the August Democratic Primary. He is now running as a write-in candidate for U.S. Representative from Florida's 6th Congressional District. Grayson served as the U.S. Representative from Florida's 8th Congressional District from 2009-2011 and 2013-2017.

³ See Committee to Elect Alan Grayson, FEC Form 1, Statement of Organization, May 24, 2006 (amend. Apr. 14, 2018). During the 2016 election cycle, the Committee's receipts totaled \$5,107,800 and disbursements totaled \$4,850,626. The Committee recently disclosed that it has \$716,230.17 cash on hand and \$2,541,722.56 in debt. See Committee to Elect Alan Grayson, Financial Summary of 2015-2016 Election Cycle covering activity from Jan. 1, 2015 to Dec. 31, 2016 at <https://www.fec.gov/data/committee/C00424713/?cycle=2016>.

⁴ RAD Referral, Committee to Elect Alan Grayson at 1 (April 2, 2019); see also *2015-2016 RAD Review and Referral Procedures*, Standards 5 and 7.

⁵ RAD Referral at 5.

⁶ *Id.* at 5-6.

⁷ *Id.* at 6.

1 On March 16, 2020, RAD supplemented its referral to include an amendment to the
2 Committee’s 2016 Pre-Primary Report which disclosed an additional \$79,646.73 in
3 disbursements.⁸

4 The Committee does not deny the errors in its 2016 July Quarterly Report.⁹ The
5 Committee explains that Grayson’s Senatorial campaign was substantially larger than his
6 Congressional campaigns, and that the complexity of the campaign made it difficult to accurately
7 track its contributions and disbursements.¹⁰ Further, the Committee states that its original report
8 was substantially incomplete when it was submitted to the Commission because the Committee’s
9 bookkeeper was hospitalized but did not notify the Committee of his health issues.¹¹ The
10 Committee further asserts that when it learned that its reports were not accurate or complete, it
11 hired a compliance company to amend its reports.¹² According to the Committee, the first
12 compliance company was unable to resolve the Committee’s reporting violations, so it hired a
13 second company to help correct the Committee’s disclosure reports.¹³ The Committee also
14 asserts that it mistakenly believed its original bookkeeper was using FECFile, the Commission’s
15 filing software, and to amend Committee reports, data needed to be migrated from another
16 software program to FECFile, which took several weeks.¹⁴ In response to the supplement to the

⁸ Supp. to RAD Referral, Committee to Election Alan Grayson at 1(Mar. 16, 2020).

⁹ Resp. at 1 (Jul. 29, 2019). Although not entirely clear, it appears that the Committee’s explanations for errors on the 2016 July Quarterly Report described in this paragraph also apply to the 2016 12-Day Pre-Primary Report. *See id.*

¹⁰ *Id.* at 2.

¹¹ *Id.* at 3.

¹² *Id.* at 4.

¹³ *Id.*

¹⁴ *Id.* at 2.

1 Referral, the Committee states that it has “devoted substantial resources, time and effort to
2 addressing the resulting issues, and it stands ready to continue to do so.”¹⁵ Despite
3 communications with and assistance from RAD, at the time of these findings, the Committee has
4 not refunded or redesignated the excessive contributions identified in the Referral.

5 **B. Legal Analysis**

6 The Act requires political committee treasurers to file reports of receipts and
7 disbursements in accordance with the provisions of 52 U.S.C. § 30104.¹⁶ Under the Act, an
8 individual may not make a contribution to a candidate with respect to any election in excess of
9 the legal limit, which was \$2,700 per election during the 2016 election cycle.¹⁷ A multicandidate
10 political action committee may not make contributions to a candidate in excess of \$5,000 per
11 election.¹⁸ A primary election and a general election are each considered a separate “election”
12 under the Act, and the contribution limits are applied separately with respect to each election.¹⁹
13 Candidates and political committees are prohibited from knowingly accepting excessive
14 contributions.²⁰

15 The Commission’s regulations permit a candidate’s committee to receive contributions
16 for the general election prior to the primary election.²¹ However, the committee must use an

¹⁵ Resp.to Supp. at 1 (Apr. 22, 2020).

¹⁶ See 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

¹⁷ 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b)(1).

¹⁸ 52 U.S.C. § 30116(a)(2)(A) and 11 C.F.R. § 110.2(b)(1).

¹⁹ 52 U.S.C. §§ 30101(1)(A) and 30116(a)(6); 11 C.F.R. §§ 100.2 and 110.1(j).

²⁰ 52 U.S.C. § 30116(f).

²¹ 11 C.F.R. § 102.9(e)(1).

1 acceptable accounting method to distinguish between primary and general election
2 contributions.²² The committee's records must demonstrate that prior to the primary election,
3 the committee's recorded cash on hand was at all times equal to or in excess of the sum of
4 general election contributions received less the sum of general election disbursements made.²³

5 Furthermore, if the candidate ultimately does not become a candidate for the general
6 election, the committee must refund, redesignate, or reattribute any general election contributions
7 in accordance with applicable Commission regulations.²⁴ The committee must do so within 60
8 days of the date that the committee has actual notice of the need to redesignate, reattribute, or
9 refund the contributions.²⁵ A committee cannot redesignate general election funds to the primary
10 election if doing so would cause the contributor to exceed the maximum allowable contribution
11 for that election.²⁶ Likewise, reattribution of a general election contribution may only occur to
12 the extent that such attribution does not exceed the contributor's contribution limits.²⁷

13 The Committee, on its own initiative, amended its 2016 July Quarterly Report and its
14 2016 Pre-Primary Election Report to disclose additional receipts and disbursements totaling
15 almost \$2.8 million, resulting in a substantial increase in financial activity that was not timely
16 disclosed. Further, the Committee accepted excessive contributions totaling almost \$165,000

²² *Id.*

²³ *Id.* § 102.9(e)(2).

²⁴ *Id.* § 102.9(e)(3).

²⁵ *See* Advisory Op. 2008-04 (Dodd); Advisory Op. 1992-15 (Russo).

²⁶ 11 C.F.R. §§ 110.1(b)(5)(iii), 110.2(b)(5)(iii). Furthermore, amounts redesignated may not exceed the net debts outstanding from the primary. *Id.*

²⁷ *Id.* § 110.1(k)(3)(ii)(B)(1).

1 and failed to refund or redesignate those contributions within the Act's timeframe. To date,
2 despite assistance from RAD, the Committee has failed to remedy these excessive contributions.

3 The Committee violated the Act when it failed to timely and accurately disclose receipts
4 and disbursements, and by accepting and failing to timely remedy excessive contributions.

5 Therefore, based on available information, the Commission finds reason to believe that the
6 Committee to Elect Alan Grayson and Star Grayson in her official capacity as treasurer violated
7 52 U.S.C. §§ 30104(b) and 30116(f) and 11 C.F.R. §§ 102.9(e), 110.1(b)(3), and 110.2(b)(3).