

June 24, 2022

Received by OGC on Friday,
June 24, 2022 at 2:57pm

BY ELECTRONIC MAIL DELIVERY

Office of General Counsel
Attn: Lisa J. Stevenson, Esq.
Acting General Counsel
Federal Election Commission
1050 First Street NE
Washington, DC 20012

RECEIVED

By Office of the Commission Secretary at 2:50 pm, Jun 29, 2022

RE: Advisory Opinion Request

Dear Ms. Stevenson:

Pursuant to 52 U.S.C. § 30108, we seek an advisory opinion on behalf of Dr. Alan Gross, former candidate for U.S. House, and Northern Leadership PAC (the “Committee”) to confirm that the Federal Election Campaign Act of 1971 (the “Act”) and Federal Election Commission (“FEC” or the “Commission”) regulations permit the Committee to convert to an authorized campaign committee of Dr. Gross or, alternatively, permit the Committee to revert back to its previous designation as Dr. Al Gross for U.S. Senate, the principal campaign committee of Dr. Gross’s 2020 campaign for U.S. Senate.

I. FACTUAL BACKGROUND

Dr. Alan Gross was a 2020 candidate for the United States Senate in Alaska. Dr. Gross’s principal campaign committee for the 2020 election was Dr. Al Gross for U.S. Senate (the “Committee”). Following Dr. Gross’s unsuccessful Senate candidacy, the Committee filed an amended Form 1 and converted to a nonconnected committee, Northern Leadership PAC.

Since the conversion, the Committee has engaged in minimal activity and has operated at all times in accordance with the limits and restrictions on authorized committees. It has not solicited or accepted any contributions. The Committee’s only disbursements have been to satisfy remaining 2020 campaign expenses, pay for ongoing compliance costs, make a few contributions within the limits for authorized committees, including to Dr. Gross’s House campaign, and pay for permissible travel expenses related to activities undertaken solely to help Dr. Gross determine the feasibility of a future Federal candidacy.¹

¹ Dr. Gross traveled to several remote Alaskan villages to meet with members of the general public and discuss issues of national importance to help understand the viability of a future Federal candidacy in Alaska. The payment by Northern Leadership PAC for the air travel expenses in connection with these trips was disclosed on the committee’s Year-End 2021 Form 3X. The Commission has concluded that it is permissible to use contributions

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Although the Committee made a single excess candidate contribution on August 25, 2021, that contribution has since been refunded.²

Alaska's at-large seat in the United States House of Representatives recently became vacant due to the death of Representative Don Young. A special primary election to fill the vacant House seat for the remainder of 2022 was held on June 11, 2022 and a special general election will be held on August 16, 2022. A primary election for the 2023-2024 House term will also be held on August 16, 2022 and a regular general election will take place on November 8, 2022. Dr. Gross announced his candidacy for both the special and regular elections on April 1, 2022 and the Gross campaign registered a new committee with the Commission, Al Gross for Congress, as the campaign's principal authorized campaign committee. Dr. Gross suspended his congressional campaign on June 20, 2022.

As a result of Dr. Gross's candidacy for the House of Representatives, Northern Leadership PAC filed an amended Form 1 on April 6, 2022 to reflect the Committee's status as a leadership PAC and identify Dr. Gross as the sponsor. The Committee also filed a Notification of Multicandidate Status on the same day.

Because the Committee has operated at all times in a manner consistent with an authorized committee, despite its brief conversion on paper, Dr. Gross and the Committee now seek to transfer the remaining Committee funds to Al Gross for Congress, pursuant to 11 C.F.R. § 110.3(c) so that they are ultimately available for use to wind down campaign operations and satisfy outstanding campaign debts in connection with Dr. Gross's congressional campaign, or for a potential future run for federal office.

II. QUESTION POSED

The Committee asks the Commission to confirm that, under the circumstances presented here, the Act and Commission regulations permit the Committee to either convert to an authorized committee of Dr. Al Gross or, alternatively, revert to the Committee's previous designation as Dr. Al Gross for U.S. Senate, the principal campaign committee of Dr. Al Gross's 2020 campaign for U.S. Senate.

III. LEGAL ANALYSIS

Nothing in the Act or Commission regulations explicitly addresses a committee's ability to convert from one type of committee to another.³ The Commission, however, has long permitted candidates to convert their candidate committees to nonconnected committees and subsequently finance the nonconnected committee's activities with contributions received by the candidate for elections in which the candidate

made to a candidate's campaign committee during a previous election cycle for purposes of evaluating a future candidacy. *See* Advisory Ops. 1982-39 (Cranston) and 1986-12 (Ferraro).

² Northern Leadership PAC made a contribution for \$5,000 to Chris Coons for Delaware on August 25, 2021. This contribution was designated for Coons's 2026 primary election and was disclosed on Northern Leadership PAC's Year-End 2021 Form 3X. Chris Coons for Delaware refunded \$3,000 of the contribution on May 31, 2022. Northern Leadership PAC will disclose the refund on the Committee's July 2022 Quarterly Form 3x.

³ *See* Advisory Op. 2004-03 at 2 (Dooley for the Valley).

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participated.⁴ Likewise, the Commission has permitted a nonfederal committee to convert to a federal political committee provided that the PAC's cash-on-hand excludes funds that failed to comply with the Act's source and amount restrictions or that were solicited in a manner that does not comply with the Act and Commission regulations.⁵

The Committee seeks to confirm that, for similar reasons, the Northern Leadership PAC may either convert to an authorized committee of Dr. Gross or revert to its previous designation of Dr. Al Gross for U.S. Senate, as (i) nothing in the Act and Commission regulations prohibits conversion by a nonconnected committee to an authorized committee, (ii) the Committee has consistently operated in accordance with the limits and restrictions on authorized committees, and (iii) the Committee has otherwise been substantially inactive during the brief period of time in which it was registered as a nonconnected committee. Indeed, in a prior advisory opinion, the Commission implied that such a conversion would be permissible, but unnecessary in light of the circumstances.⁶

The only limitation on designating a principal campaign committee is that the committee may not support and has not supported more than one candidate with contributions of more than \$2,000 per election.⁷ Here, the Committee satisfies this condition. Although the Committee made a single \$5,000 candidate contribution on August 25, 2021, the Committee recently realized this contribution was excessive, as at the time the contribution was made, the Committee did not yet qualify for multicandidate status.⁸ The Committee has since requested and received a \$3,000 refund to remedy the overpayment, rendering it permissible whether made by a nonmulticandidate PAC or authorized committee.⁹ Further, the Regulations authorize the creation of more than one authorized campaign committee, which may accept contributions or make expenditures on behalf of the candidate, provided that only one is designated the principal campaign committee.¹⁰

While the fact that the Committee has operated consistently with the requirements of an "authorized committee" should alone be sufficient justification to permit the Committee's conversion, it is also noteworthy that the Committee never acted as a multicandidate committee. For example, a multicandidate committee may accept more money over the course of a typical cycle than a campaign

⁴ Advisory Ops. 2012-06 (Perry); *see also e.g.* 2004-03 at 2 (Dooley for the Valley), 1994-31 (Gallo), 1993-22 (Roe), 1988-41 (Stratton), 1987-11 (Zorinsky), 1985-30 (Holt), 1985-13 (Lagomarsino), 1983-14 (Clausen), 1982-32 (Jackson Can Win), and 1978-86 (Church)).

⁵ *See* Advisory Op. 2018-02 (ALRAD PAC) (concluding that a nonfederal committee could convert to a federal nonconnected committee so long as the funds in the account at the time of registration complied with the source and amount restrictions).

⁶ *See* Advisory Op. 2004-03 at 4 (Dooley for the Valley) (explaining that "[t]he Committee does not have to revert back to a principal campaign committee in light of the answer to question (1).")

⁷ 11 C.F.R. §§ 102.12 (prohibiting a committee that "supports or has supported more than one candidate" from being designated as a principal campaign committee), 102.13 (prohibiting a committee that "supports or has supported more than one candidate" from being designated as an authorized committee).

⁸ 11 C.F.R. §§ 102.12, 102.13.

⁹ *See* 52 U.S.C. § 30116(a); 11 C.F.R. §§ 110.1(b)(1); 102.13(c)(2).

¹⁰ 11 C.F.R. §101.1(b).

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committee¹¹ and may contribute up to \$5,000 per year to as many federal candidates as it chooses.¹² Here, the Committee never raised a single dollar after conversion and never accepted any funds in excess of the limits and restrictions on authorized committees. The Committee made a single contribution in excess of the limits for authorized committees for which it has now received a refund. The Committee was also never used to pay for anything for which an authorized committee could not also pay. In sum, the Committee has not provided “support” to more than one candidate and no other funds have been spent for purposes prohibited of candidate committees, including for the personal use of Dr. Gross.

Moreover, there is no risk of circumvention based on these facts. If an authorized committee were to convert to a multicandidate PAC and avail itself of higher limits on contributions made and received, that would present a different situation. In contrast, we are simply proposing to unwind a conversion that has not resulted, and will not result, in the use or solicitation of impermissible funds.

CONCLUSION

Despite its brief change in formal designation, the Committee has continuously satisfied the requirements of an authorized committee. Thus, we respectfully request that the Commission confirm that the Act and Commission regulations permit the Committee to convert to an authorized committee of Dr. Al Gross or, in the alternative, to revert back to the principal campaign committee of his 2020 U.S. Senate campaign. In doing so under these unique circumstances, the Committee’s limited activities ensure that it is neither circumventing any limits or prohibitions of the Act or Commission regulations, nor establishing a precedent that *any* nonconnected committee may convert to an authorized committee.

Very truly yours,



Lindsay M. Nathan

Meredith C. McCoy

Counsel to Dr. Al Gross and Northern Leadership PAC

¹¹ See 52 U.S.C. § 30116(a).

¹² See *id.*; 11 C.F.R. §110.2.