

COPY

RECEIVED  
FEDERAL ELECTION  
COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

2011 JUL 27 AM 10: 22

In the Matter of )

CELA

Honeycutt for Congress and Scott Mackenzie, )

MUR 6138

in his official capacity as treasurer )

Andrew Honeycutt )

Democrats for Good Government )

David Knox )

GENERAL COUNSEL'S REPORT # 2

**I. ACTIONS RECOMMENDED**

(1) Take no further action regarding Honeycutt for Congress and Scott Mackenzie, in his official capacity as treasurer, Andrew Honeycutt, Democrats for Good Government, and David Knox; (2) Dismiss the allegation that Democrats for Good Government violated 2 U.S.C. §§ 433 and 434; and (3) close the file.

**II. FACTUAL DISCUSSION**

**A. Background**

This matter arose from a complaint alleging that Respondents violated the Federal Election Campaign Act of 1971, as amended ("the Act"), in connection with two communications, entitled "Corrupt" and "Voters." Both communications expressly advocated the defeat of U.S. Representative David Scott, Deborah T. Honeycutt's 2008 general election opponent for a congressional seat in Georgia's 13<sup>th</sup> Congressional District. Both "Corrupt" and "Voters" are 3.5 x 8.5 inch double-sided cards. See Attachments 1 and 2. "Corrupt" contains a disclaimer that the communication was paid for by "DemocratsforGoodGovernment.com," but an invoice provided with the complaint suggested that it was paid for by Honeycutt for Congress and Scott Mackenzie, in his official capacity as treasurer ("HFC"), the principal campaign committee of Deborah T. Honeycutt. The invoice further suggested the direct involvement of

11044304346

David Knox, the principal of Democrats for Good Government ("DGG"), and Andrew Honeycutt, HFC's campaign chairman. See MUR 6138 First General Counsel's Report at 6-7. "Voters" does not contain a disclaimer, but information available at the time of the Commission's reason to believe finding suggested that it was created and disseminated by DGG and David Knox. See First General Counsel's Report at 12-14.

Based on the available information, the Commission found reason to believe that:

(1) HFC and Andrew Honeycutt knowingly and willfully violated 2 U.S.C. § 441d(a) by failing to provide a proper disclaimer on the "Corrupt" communication; (2) HFC violated 2 U.S.C. § 434(b) by failing to timely disclose the \$1,385.75 it paid to print the "Corrupt" communication; and (3) DGG and David Knox violated 2 U.S.C. §§ 441d(a) and 434(c) by failing to include a disclaimer on the "Voters" communication and by failing to disclose the payment for "Voters" as an independent expenditure.<sup>1</sup> The Commission authorized an investigation to resolve factual issues regarding the creation of the communications; their total costs; their distribution; and whether any candidate or candidate's committee authorized them. Although our investigation revealed inconsistencies between what Andrew Honeycutt and David Knox each said in written statements compared with what each said in their respective interview statements regarding the payment for and the distribution of the "Corrupt" communication, which call into question their credibility, in view of the limited scope and cost of the activity and the unavailability of evidence showing that "Corrupt" or "Voters" were "public communications," and thus subject to the Act's disclaimer requirements, we recommend that the Commission exercise its prosecutorial discretion and take no further action regarding its previous reason to believe findings, and

<sup>1</sup> The complaint also alleged that HFC and DGG fraudulently misrepresented that the "Corrupt" communication was supported by the Democratic Party. The Commission was equally divided on whether to find reason to believe that Respondents violated 2 U.S.C. § 441h(a). See Certification for MUR 6138 dated May 26, 2016.

1 caution HFC regarding its section 434(b) violation. We also recommend that the Commission  
2 dismiss the allegation that Democrats for Good Government violated 2 U.S.C. §§ 433 and 434,  
3 caution DGG, and that the Commission close the file in this matter as to all respondents.

4 **B. Investigation**

5 The evidence from the investigation shows that DGG and Knox created the "Corrupt"  
6 communication and likely distributed it in limited numbers, and that there were minimal costs  
7 associated with its creation, production, and distribution aside from the \$1,385.75 printing costs.  
8 DGG also operates websites, which began in approximately May 2007, and which are singularly  
9 devoted to criticizing Rep. David Scott. DGG's other activity appears to have been limited to  
10 this single communication.<sup>2</sup> During his interview, David Knox stated that DGG did not solicit or  
11 receive any contributions, and we uncovered no information to the contrary.

12 **1. "Corrupt" Communication**

13 David Knox personally designed and created the "Corrupt" communication. See  
14 Attachment 1; see also David Knox and DGG Response to Commission's Subpoena at 1.  
15 ("Knox/DGG Response"). The funds to print copies of "Corrupt" were provided by Andrew  
16 Honeycutt, who had known Knox personally and professionally since 2003 through their  
17 membership in an Atlanta-area church.<sup>3</sup> See Knox/DGG Response at 1-2; see also Andrew  
18 Honeycutt Response to Commission's Subpoena at 1-2. ("Honeycutt Response"). According to  
19 Andrew Honeycutt's interrogatory responses, and his and Knox's responses to the reason to

<sup>2</sup> DGG is not registered as a political committee with the Commission or the Georgia State Ethics Commission, and is not registered with the IRS as a section 527 organization. Knox recently updated his [www.voteoutdavidscott.com](http://www.voteoutdavidscott.com) website to include content alleging that Rep. Scott's conduct contributed to a county school district within the 13<sup>th</sup> Congressional District losing its accreditation. In addition, the website has been updated to include additional links to news articles critical of Rep. Scott. See [www.voteoutdavidscott.com](http://www.voteoutdavidscott.com) (last viewed July 15, 2011).

<sup>3</sup> HFC used Knox's company, DK Intermedia, as a vendor for graphic design and website services during the 2006 and 2008 election cycles. The final DK Intermedia invoice to HFC is dated May 8, 2008.

11044304348

11044304349

1 believe notification letters, in the summer of 2008, Knox met privately with Honeycutt and asked  
2 to borrow money. Knox asserts that he asked Honeycutt for a personal loan "to procure  
3 materials for DGG." See Knox/DGG Response at 1. Honeycutt, who knew of Knox's  
4 opposition to Rep. Scott and his involvement with DGG, stated that he agreed to loan Knox  
5 money in order to "print organizational materials for Democrats for Good Government." See  
6 Honeycutt Response at 3; see also Knox/DGG Response at 1. Honeycutt stated that he intended  
7 to make a personal loan to Knox but mistakenly gave Knox HFC's debit card, which Knox used  
8 to pay \$1,385.75 to 48HourPrint.com for copies of the "Corrupt" communication.<sup>4</sup> See  
9 Honeycutt Response at 3. In a subsequent telephone interview, Honeycutt recanted this portion  
10 of his written response and stated that Knox asked to borrow money for an undisclosed purpose  
11 and that Honeycutt mistakenly provided Knox with HFC's debit account number from a list of  
12 various account numbers he kept in his wallet. In a telephone interview after his written  
13 response, Knox too revised his account, stating that he asked to borrow money from Honeycutt,  
14 but did not tell Honeycutt for what or why he needed the funds. Knox also stated that Honeycutt  
15 gave him a debit account number rather than the debit card itself. However, HFC treasurer Scott  
16 Mackenzie told us in an interview that Honeycutt stated to him that he provided Knox with  
17 HFC's actual debit card.

18 During their respective telephone interviews, Honeycutt and Knox each stated that Knox  
19 personally repaid Honeycutt in five installments. Neither individual could recount if the  
20 installment payments were made in cash or by check. At the time of the final payment,  
21 Honeycutt deposited the total amount into HFC's account. HFC produced bank statements that  
22 indicate that a deposit of \$1,385.75, the full amount of the 48HourPrint.com invoice, was made

---

<sup>4</sup> According to Honeycutt, he gave Knox a spending limit of \$1,500.

1 to the Committee's account in February 2009. *See* Honeycutt for Congress Response to  
2 Commission's Subpoena ("HFC Response") Attachment 3.

3 Knox acknowledged during his interview that he ordered the "Corrupt" cards from  
4 48HourPrint.com at a cost of approximately \$1,300 using the account number provided by  
5 Honeycutt. *See also* Knox/DGG Response. Knox produced no records or receipts for the  
6 48HourPrint.com order, and denied ordering 25,000 cards as listed on the invoice, but could not  
7 specify how many he did order. Knox also provided no explanation regarding his decision to use  
8 the shipping address for the cards listed on the 48HourPrint.com invoice, 118 North Avenue  
9 Suite A, Jonesboro, Georgia. Our investigation revealed that this address was a campaign office  
10 for HFC. In Honeycutt's interview, he initially denied any knowledge of this address, but  
11 eventually acknowledged the address as a campaign office manned by a campaign staffer named  
12 "Della," and that HFC used the location to store campaign materials. Honeycutt denied any  
13 knowledge of how Knox came to use an HFC campaign office as the shipping address for the  
14 "Corrupt" communication or who retrieved the copies of the "Corrupt" communication at this  
15 address. Despite repeated attempts, Knox refused to respond to our questions on the decision to  
16 use an HFC campaign office address and the retrieval of the "Corrupt" communication.

17 As for the distribution of "Corrupt," in his written response, Knox asserts that he  
18 provided an indeterminate number of the "Corrupt" communications to an unnamed volunteer  
19 with the campaign of Donzella James, a candidate in the 2008 Democratic Primary against Rep.  
20 Scott. *See* Knox/DGG Response at 1. We interviewed Donzella James, who denied any contact  
21 with DGG or David Knox. She also denied that she or her campaign staff participated in the  
22 creation or distribution of the "Corrupt" communication. During his subsequent interview, Knox

11044304350

1 stated that he distributed "approximately 100 or 200" at a DGG meeting and at a local town hall  
2 meeting, and discarded the remainder.

3 Andrew Honeycutt denied participating in the creation or distribution of "Corrupt." See  
4 Honeycutt Response at 1. In his sworn testimony in response to the Commission's subpoena,  
5 HFC's treasurer similarly asserts that Honeycutt had no knowledge of "Corrupt" until a  
6 complaint was filed with the Commission. See HFC Response at 3. While HFC acknowledges  
7 that it "technically" paid for the "Corrupt" communication, it asserts it did not authorize or  
8 participate in the creation or distribution of the communication. See *id.* at 4.

## 9 2. "Voters" Communication

10 As noted in the First General Counsel's Report, local media reported that a "flier"  
11 matching the description of the "Voters" communication appeared on top of mailboxes across  
12 Georgia's 13th Congressional District. See First General Counsel's Report at 7, fn. 6. Our  
13 investigation revealed little additional information regarding the creation, production, or  
14 distribution of the "Voters" communication. HFC and Andrew Honeycutt both denied any  
15 knowledge or involvement with this communication in their written responses to the  
16 Commission. See HFC Response at 3 and Honeycutt Response at 1. Honeycutt and HFC  
17 treasurer Scott Markowski also denied any knowledge in their interviews.

18 In his written response, Knox asserted that an individual named Dadisi Olutosin  
19 contacted him after viewing Knox's DGG website.<sup>5</sup> See Knox/DGG Response at 2-3.  
20 According to Knox, the two met and Mr. Olutosin offered to produce and print anti-David Scott  
21 literature for \$5,000. *Id.* Knox further stated in his written response that Mr. Olutosin gave him

---

<sup>5</sup> Knox spelled his name "Olwatsin," but through our investigation we learned that the correct spelling was "Olutosin."

1 100 printed cards of the "Voters" communication. *Id.* Knox stated that he rejected the offer and  
2 discarded the cards. In our interview of Mr. Olutosin, he denied creating, producing, or  
3 distributing "Voters," and any contact with Knox, DGG, Honeycutt, or HFC.

4 In addition to the DGG website, Knox created and maintains an additional website called  
5 www.VoteOutDavidScott.com, accessed as a link from DGG's website. The "Voters"  
6 communication mainly consists of statements found at www.VoteOutDavidScott.com. *See*  
7 *Kmrz/DGG Response; see also Attachment 2.* Both "Voters" and the website include the  
8 sentence: "Representative Scott's records indicate he cares more about his wealth and comfort  
9 than about education, employment and health needs of the citizens of Clayton, Cobb, DeKalb,  
10 Douglas, Henry, and South Fulton counties." *See Attachment 2; see also*  
11 http://www.VoteOutDavidScott.com. In addition, both the "Voters" communication and the  
12 website refer the reader to identical websites with press articles that criticize Rep. Scott. During  
13 our interview of Knox, we pointed out the similarities between "Voters" and  
14 www.VoteOutDavidScott.com, but Knox continued to assert that Mr. Olutosin produced the  
15 "Voters" communication and offered to sell it to him. While we suspect that Knox was less than  
16 totally forthcoming, we were unable to develop any additional information about this  
17 communication.

### 18 **III. LEGAL ANALYSIS**

#### 19 **A. Disclaimers**

20 The Act and the Commission's regulations require that all public communications paid  
21 for by a candidate or a political committee must contain a disclaimer that clearly states that the  
22 political committee has paid for it. 2 U.S.C. § 441d(a); 11 C.F.R. § 110.11(a)(1). Disclaimers  
23 are also required for public communications financed by any person that expressly advocate the  
24  
25

11044304352

1 election or defeat of a clearly identified candidate. 2 U.S.C. § 441d(a); 11 C.F.R. § 110.11(a)(2).

2 The term "public communication" includes "mass mailings" and "any other general public  
3 political advertising." 2 U.S.C. § 431(22); 11 C.F.R. § 100.26. Mass mailing is defined as a  
4 mailing by U.S. mail or facsimile of more than 500 pieces of mail matter of an identical or  
5 substantially similar nature within any 30-day period. 2 U.S.C. § 431(23); 11 C.F.R. § 100.27.

6 The Commission has determined that campaign literature "distributed to the general public at  
7 their place of residence...constitutes general public political advertising." See MUR 4741 (Mary  
8 Bena Committee) Factual and Legal Analysis (finding reason to believe that the Committee  
9 violated 2 U.S.C. § 441d(a) by failing to include a disclaimer on campaign material left on  
10 doorknobs of residences).

11 HFC acknowledges that it paid for the printing of the "Corrupt" communication. Andrew  
12 Honeycutt, however, asserts he mistakenly gave Knox the Committee's account number for a  
13 transaction that was intended to be a personal loan between Honeycutt and Knox. Knox later  
14 repaid Honeycutt for the entire \$1,385.75 amount of the 48HourPrint.com invoice. See also  
15 HFC Response at 2-3. Although Honeycutt revised his version of events from knowing that  
16 Knox planned to use the funds for DGG to not knowing Knox's plans for the funds, Honeycutt  
17 confirms he knew of Knox's involvement with DGG, the purpose of which was to oppose Rep.  
18 Scott's reelection. During their respective interviews, Andrew Honeycutt and HFC's treasurer  
19 acknowledged that Honeycutt had decision-making authority including the hiring of contractors  
20 such as David Knox and that Honeycutt possessed HFC's debit card or debit card number. It  
21 seems unlikely that Honeycutt would give up to \$1,500 in credit to Knox without knowing  
22 something about what Knox intended to do with the money and it is reasonable to assume he  
23 knew, or should have known, that Knox would use it in his efforts to oppose Rep. Scott.

11044304353



1 In any event, because HFC initially paid for "Corrupt," the communication may have  
2 required a disclaimer stating that HFC paid for and authorized it, rather than stating "paid for by:  
3 Democrats for Good Government.com." However, although HFC amended its disclosure reports  
4 to include the disbursement, *see discussion infra*, Knox repaid Honeycutt for the printing costs,  
5 and Honeycutt deposited the repayment in HFC's account, making it somewhat unclear who  
6 really "paid" for the communication. Moreover, if Honeycutt had no knowledge of how Knox  
7 planned to use the funds, and intended this transaction to be a personal loan, to be repaid by  
8 Knox, the communication may have properly recited that it was paid for by DGG, but in that  
9 case, it nevertheless may have required a compliant disclaimer, including an authorization  
10 statement and other information because it contained express advocacy with language such as  
11 "Your Vote Counts for Change!" referring to Congressman Scott and its two references to  
12 "VoteOutDavid Scott.com."<sup>6</sup> *See* 11 C.F.R. §§ 110.11(b)(3) and 100.22; *see also* Attachment 1.  
13 Whether or not the "Corrupt" communication, if paid for by Knox or DGG, had to be compliant  
14 depends on it constituting a "public communication." *See* 2 U.S.C. §§ 441d(a) and 431(22);  
15 11 C.F.R. §§ 110.11(a) and 100.26.

16 The available evidence is inconclusive whether "Corrupt" or "Voters" were "public  
17 communications." The invoice states that the vendor printed 25,000 copies of "Corrupt," but  
18 Knox asserted that number was incorrect. There is no information that any copies of "Corrupt"  
19 were mailed, let alone in excess of 500 copies. Knox variously asserted that he distributed less  
20 than 200 copies at meetings, or that he gave some number to an unnamed volunteer for Donzella  
21 James' primary campaign. Donzella James and Andrew Honeycutt deny that their respective

---

<sup>6</sup> Similar to the "Corrupt" communication, "Voters" contains language such as "Check his record and Vote Him Out," "Time for a Change from David Scott," "Voters Vote Him Out," and a reference to "VoteOutDavidScott.com" that expressly advocates the defeat of Rep. Scott. *See* 11 C.F.R. § 100.22; *see also* Attachment 2.

11044304354

11044304355

1 campaigns distributed any copies. While Honeycutt's and Knox's changed version of events as  
2 reflected in their responses and telephone interviews raise credibility questions, we have not  
3 located any independent information indicating that even if 25,000 copies of "Corrupt" were  
4 ordered, that any number near that figure, or even approaching 500 copies, were actually  
5 distributed. Neither the complaint nor the local media provided any additional information  
6 regarding the distribution of the "Corrupt" communication. Thus, we are unable to conclude that  
7 it is a "public communication" for purposes of the disclaimer rules. Given these circumstances,  
8 as well as the lack of clarity concerning who should be deemed the payor of the "Corrupt"  
9 communication, and its relatively low cost, we believe that further pursuit of this matter would  
10 not be an efficient use of further Commission resources. Thus, we recommend that the  
11 Commission, as a matter of prosecutorial discretion, take no further as to Honeycutt for  
12 Congress, and Scott Mackenzie, in his official capacity as treasurer, and Andrew Honeycutt in  
13 connection with its reason to believe findings that they knowingly and willfully violated 2 U.S.C.  
14 § 441d(a) by failing to provide a proper disclaimer on the "Corrupt" communication. See  
15 *Heckler v. Chaney*, 470 U.S. 821 (1985).

16 Although there is information to the contrary, primarily the similarity of some of the  
17 content in "Voters" and on Knox's own VoteOutDavidScott.com website, David Knox denied  
18 any involvement in the creation or production of "Voters," as did Dadiel Okutesin, the individual  
19 Knox identified as the source of the communication. We did not locate any additional  
20 information regarding any other person(s) who might have been responsible for the  
21 communication. We were also unable to confirm a local media report that copies of a "flier"  
22 matching the description of "Voters" were placed on mailboxes throughout the 13<sup>th</sup>  
23 Congressional District. Accordingly, we cannot conclusively determine who created "Voters,"

whether and by whom "Voters" was disseminated, or whether, if disseminated, the number of copies disseminated would constitute a "public communication" for the purposes of the disclaimer rules. Therefore, we also recommend that the Commission take no further action regarding its reason to believe findings that Democrats for Good Government and David Knox violated 2 U.S.C. § 441d(a) by failing to include a disclaimer on the "Voters" communication. See *Heckler v. Chaney*, 470 U.S. 821 (1985).<sup>7</sup>

**B. Reporting**

**1. Disclosure of Payments Related to "Corrupt"**

A candidate's authorized committee must disclose all disbursements. See 2 U.S.C. § 434(b)(4). HFC's debit card paid for, but HFC did not disclose the \$1,385.75 disbursement to, 48HourPrint.com in its initial 2008 October Quarterly Report filed on October 15, 2008. On October 22, 2008, the Committee filed an amended 2008 October Quarterly Report that disclosed the \$1,385.75 disbursement before receiving the complaint in this matter.<sup>8</sup> HFC asserts that while preparing its October 2008 Quarterly Report, it encountered a system failure and submitted a skeleton version of its October 2008 Quarterly Report rather than failing to meet the reporting deadline. See HFC Response at 4-5. HFC's original October Quarterly Report was 47 pages; the amended report was 1,275 pages. In view of HFC disclosing its \$1,385.75 payment

<sup>7</sup> Honeycutt and Knox's initial statements that Knox was loaned the \$1,385.75 for DGG and the subsequent repayment of this loan by Knox raise the issue of whether Knox or DGG made, and HFC accepted, an in-kind contribution to HFC in the form of a coordinated communication. See 2 U.S.C. § 441a(a)(7)(B)(i); 11 C.F.R. § 109.21. The criterion for a coordinated communication consists of three standards: payment by someone other than the candidate or her committee; satisfaction of the content standards; and satisfaction of the conduct standards. 11 C.F.R. § 109.21. Even if the payment standard is satisfied because Knox ultimately paid for "Corrupt," see 11 C.F.R. § 109.21(a)(1), it is not clear whether the content standard has been met. Although the "Corrupt" communication expressly advocates the defeat of Rep. Scott, as noted above the evidence is inconclusive whether "Corrupt" is a "public communication." See 11 C.F.R. § 109.21(c)(3). As such, we make no recommendation regarding a possible in-kind contribution made by David Knox or DGG as accepted by HFC.

<sup>8</sup> The complaint was initially filed on October 21, 2008, but was returned to the Complainant to correct a form defect; the complaint was properly submitted on November 26, 2008.

11044304356

1 before receiving the complaint, only seven days after the filing deadline, and thirteen days before  
2 the 2008 election, we do not recommend further pursuit of the failure to timely report this  
3 disbursement.

4 HFC also did not timely disclose its receipt of the \$1,385.75 repayment from David  
5 Knox. Although HFC received the final installment of this amount on February 9, 2009, it did  
6 not disclose any part of its receipt until January 25, 2011, when it filed an amended April 2009  
7 Quarterly Report disclosing the entire repayment. Nonetheless, since the initial repayment date  
8 occurred after Deborah Honeycutt lost the election to Rep. Scott, the delay in reporting did not  
9 affect the election, and the amount involved was relatively small. Therefore, we recommend that  
10 the Commission, as a matter of prosecutorial discretion, take no further action regarding its  
11 reason to believe finding that Honeycutt for Congress violated 2 U.S.C. § 434(b). However, we  
12 recommend that the Commission caution the Committee as to its untimely disclosure of both the  
13 \$1,385.75 disbursement and the \$1,385.75 receipt. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

## 14 2. Independent Expenditure Reporting

15 The Commission found reason to believe that David Knox and Democrats for Good  
16 Government violated 2 U.S.C. § 434(c) in order to investigate whether the "Voters"  
17 communication met the \$250 independent expenditure reporting threshold. *See* MUR 6138 First  
18 General Counsel Report at 15. As discussed above, Knox denies any involvement with this  
19 communication other than meeting with Dadisi Olutosin, who Knox states showed him 100  
20 copies of printed cards that resembled "Voters." Mr. Olutosin denies Knox's statements. Since  
21 we have no dispositive evidence showing who created, produced, or distributed "Voters," and  
22 what the communication cost, we cannot conclude that any person made independent

11044304357

1 expenditures of \$250 or more in connection with this communication.<sup>9</sup> Accordingly, we  
2 recommend that the Commission take no further action regarding its reason to believe finding  
3 that David Knox and Democrats for Good Government violated 2 U.S.C. § 434(c).

4 **C. Political Committee Status**

5 The complaint in this matter also alleged that Democrats for Good Government met the  
6 threshold for political committee status in 2008. See 2 U.S.C. §§ 433 and 434. The First  
7 General Counsel's Report in this matter made no recommendation regarding this allegation, as  
8 there was insufficient information at that time to assess DGG's status. See MUR 6138 First  
9 General Counsel's Report at 15-17.

10 The Act defines a "political committee" as any committee, club, association, or other  
11 group of persons which receives "contributions" or makes "expenditures" for the purpose of  
12 influencing a Federal election which aggregate in excess of \$1,000 during a calendar year.  
13 2 U.S.C. § 431(4)(A). The term "contribution" is defined to include "any gift, subscription, loan,  
14 advance, or deposit of money or anything of value made by any person for the purpose of  
15 influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). The term "expenditure" is  
16 defined to include "any purchase, payment, distribution, loan, advance, deposit, or gift of money  
17 or anything of value, made by any person for the purpose of influencing any election for Federal  
18 office." 2 U.S.C. § 431(9)(A)(i). Groups that trigger political committee status are required to  
19 register with the Commission and publicly report all of their receipts and disbursements.  
20 2 U.S.C. § 433 and 434.

21 The Supreme Court has held that only organizations whose major purpose is campaign  
22 activity can potentially qualify as political committees under the Act. See, e.g. *Buckley v. Valeo*,

---

<sup>9</sup> Even if HFC did not authorize "Corrupt," in view of its initial payment for the printing costs and its receipt of the printed copies at an HFC office, "Corrupt" does not appear to constitute an "independent expenditure."

1 424 U.S. 1, 79 (1976); *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238, 262 (1986). The  
2 Commission has long applied the Court's major purpose test in determining whether an  
3 organization is a "political committee" under the Act, and it interprets that test as limited to  
4 organizations whose major purpose is Federal campaign activity (*i.e.*, the nomination or election  
5 of a Federal candidate). *See* Political Committee Status: Supplemental Explanation and  
6 Justification, 72 Fed. Reg. 5595, 5597, 5601 (Feb. 7, 2007).

7         According to David Knox, DGG did not solicit or receive any contributions, and the  
8 available information does not suggest otherwise. Therefore, Knox's repayment to HFC of  
9 \$1,385.75 for the printing cost of "Corrupt" apparently came from Knox's personal funds, not  
10 DGG's funds. To the extent that Knox was the ultimate payor of the \$1,385.75 for printing of  
11 the "Corrupt" communication that expressly advocated the defeat of Rep. Scott, under 11 C.F.R.  
12 § 100.22(a), it appears that DGG, through Knox, made expenditures for the "Corrupt"  
13 communication. Therefore, DGG satisfied the statutory in excess of \$1,000 expenditure  
14 threshold for political committee status. Because DGG's sole activity to date has been  
15 advocating the defeat of Rep. Scott in his reelection efforts, it also appears that DGG met the  
16 Commission's major purpose test. As such, it appears that DGG may constitute a political  
17 committee under the Act. Nonetheless, under the circumstances present here, we recommend  
18 that the Commission exercise its prosecutorial discretion and dismiss the allegations that  
19 Democrats for Good Government violated 2 U.S.C. §§ 433 and 434, and caution the respondent.

20         It appears that DGG consists only of David Knox. Knox owns a website and design  
21 company and is apparently proficient in creating and designing websites and likely has done so  
22 at minimal cost. Knox stated that DGG has been dormant since 2008 and that its primary  
23 activity consisted of its websites; however, Knox still maintains the websites, and the

11044304359

11044304360

1 www.voteoutdavidscott.com website was recently updated. *See supra*, fn. 2. The available  
2 evidence suggests that the "Corrupt" communication was minimally distributed, and the  
3 evidence regarding DGG's involvement in "Voters" is inconclusive. In addition, Knox stated  
4 that DGG does not have any bank accounts, and its only expense is a nominal monthly payment  
5 of \$9.95 for webhosting. As evidenced by the fact that DGG through Knox had to borrow a  
6 relatively low amount of funds to finance the "Corrupt" communication, it appears that DGG has  
7 no, or limited, funds of its own. Moreover, Knox stated that DGG has made no solicitations and  
8 received no contributions, and we found no information to the contrary. Considering DGG's  
9 limited conduct and apparent minimal costs spent towards the "Corrupt" communication, it  
10 appears that requiring it to register, file reports from 2008 to the present, and then terminate,  
11 would not warrant the time and resources involved. Accordingly, we recommend that the  
12 Commission exercise its prosecutorial discretion and dismiss the allegation that Democrats for  
13 Good Government violated 2 U.S.C. §§ 433 and 434 by failing to register and report as a  
14 political committee, and caution this respondent. *See Heckler v. Chaney*, 470 U.S. 821 (1985).  
15 Finally, we recommend that the Commission close the file as to all respondents.

16 **IV. RECOMMENDATIONS**

- 17
- 18 1. Take no further action regarding the reason to believe finding that Honeycutt for  
19 Congress and Scott Mackenzie, in his official capacity as treasurer, and Andrew  
20 Honeycutt knowingly and willfully violated 2 U.S.C. § 441d(a).  
21
- 22 2. Take no further action regarding the reason to believe finding that Honeycutt for  
23 Congress and Scott Mackenzie, in his official capacity as treasurer, violated  
24 2 U.S.C. § 434(b) and caution these respondents.  
25
- 26 3. Take no further action regarding the reason to believe finding that Democrats for  
27 Good Government and David Knox violated 2 U.S.C. § 441d(a).  
28
- 29 4. Take no further action regarding the reason to believe finding that Democrats for  
30 Good Government and David Knox violated of 2 U.S.C. § 434(c).  
31

5. Dismiss the allegation that Democrats for Good Government violated 2 U.S.C. §§ 433 and 434 by failing to register and report as a political committee and caution this respondent.
6. Approve the attached Factual and Legal Analysis for Democrats for Good Government.
7. Approve the appropriate letters, including letters cautioning Honeycutt for Congress and Scott Mackenzie, in his official capacity as treasurer, and Democrats for Good Government.
8. Close the file as to all respondents.

Christopher Hughey  
Acting General Counsel

July 27, 2011  
Date

BY: Susan L. Lebeaux  
Susan L. Lebeaux  
Acting Deputy Associate General  
Counsel for Enforcement

Mark Allen  
Mark Allen  
Assistant General Counsel

Shana M. Broussard  
Shana M. Broussard  
Attorney

**Attachments:**

1. "Corrupt" communication
2. "Voters" communication

11044304361



# CORRUPT DAVID SCOTT



David Scott is  
**CORRUPT!!!**

reports  
**Atlanta Journal Constitution**  
**DC Citizens Watch Group**  
and  
**Clayton County**  
**Democrat Organization**

[www.beyonddelay.org](http://www.beyonddelay.org)  
[www.voteoutdavidscott.com](http://www.voteoutdavidscott.com)

 **Your Vote Counts for Change!**  
**VoteOutDavidScott.com**

Paid for by: DemocratsForGoodGovernment.com

## SCOTT'S Re-election Strategy

The Worst black Congressperson



**CORPORATE CASH**

Rep. Davin Scott of GA District 12

1. Use endorsements from *Atlanta Journal Constitution* and *DC Citizens Watch Group* to raise money.
2. Direct voters attention to... in order to... leaders... of the... of... in... votes.

One... supporter... the Voters. Scott's... Honeycutt for publishing the... scandal. Most Democratic voters will not... Scott's congressional record.

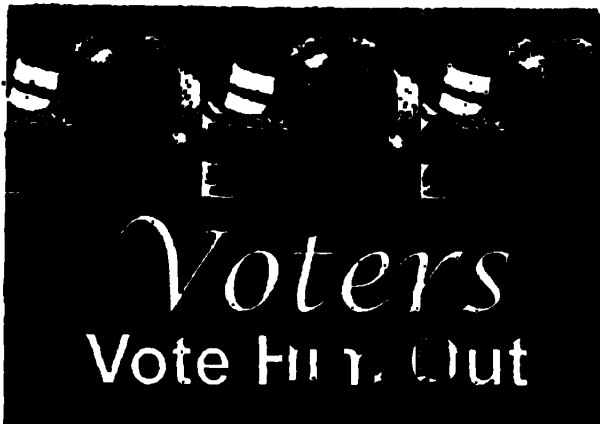
**Your Vote Counts for Change!**

**Out**

Paid for by: DemocratsForGoodGovernment.com

EXHIBIT

Attachment 2



**Representative Scott's records indicate he cares more about his wealth and comfort than about education, employment and health needs of the citizens of Clayton, Cobb, Dekalb, Douglas, Henry, and South Fulton Counties.**

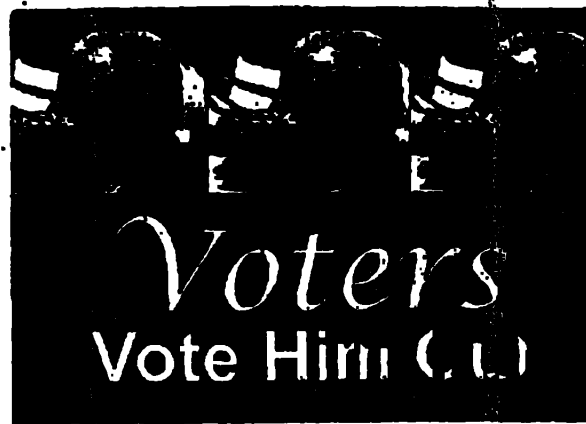
**Check his record and  
Vote Him Out**

**[http://www.beyonddelay.org/  
node/317](http://www.beyonddelay.org/node/317)**

**[http://www.goodwillhinton.com/  
rep\\_david\\_scott's\\_financial  
\\_shenanigans](http://www.goodwillhinton.com/rep_david_scott's_financial_shenanigans)**

**[http://www.citizenofethics.org/  
node/30146](http://www.citizenofethics.org/node/30146)**

**Time for a Change  
- from David Scott  
[www.voteoutdavidscott.com](http://www.voteoutdavidscott.com)  
Democracy for Government**



## WHY

- Listed as a Corrupt Congressman**
- Tax Evasion**
  - 40 tax liens**
  - \$150,000 IRS Lien**
- Misuse of Official Resources**
- Violation of Federal and State Tax Laws**
- For Illegal Amnesty**
- Funneled \$715,330.17 to family from campaign**
- Under Federal Investigation**

**Time for a Change  
from David Scott  
[www.voteoutdavidscott.com](http://www.voteoutdavidscott.com)  
Democracy for Good Government**