



FEDERAL ELECTION COMMISSION 2011 JUL -1 PM 1:29  
WASHINGTON, D.C. 20462

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**MEMORANDUM**

**SENSITIVE**

2011 JUL -5 A 11:34

FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

TO: The Commission

FROM: Christopher Hughey  
Acting General Counsel

Kathleen M. Guith  
Acting Associate General Counsel for Enforcement

Stephen Gura  
Deputy Associate General Counsel for Enforcement

BY: Peter G. Blumberg  
Assistant General Counsel *PGB*

Wanda D. Brown  
Attorney *WBh7P8*

SUBJECT: MUR 6451 (MoveOn.org and Wes Boyd, in his official capacity  
as treasurer)

RE: Pre-Probable Cause Conciliation Agreement

**ACTIONS RECOMMENDED**

(1) Accept the signed conciliation agreement; (2) approve the appropriate letters;  
and (3) close the file.

**DISCUSSION**

Attached is a conciliation agreement signed by counsel on behalf of MoveOn.Org  
and Wes Boyd, in his official capacity as treasurer, (the "Committee" or "Respondents").  
The agreement would settle violations of 2 U.S.C. § 434(g) and 11 C.F.R. § 104.4(b) and  
(c) stemming from the Committee's failure to file four 48-Hour Notices of independent  
expenditures totaling \$557,082.36 and two 24-Hour Notices of independent expenditures  
totaling \$158,393.02.

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3 | The agreement recites the  
4 pertinent facts of this matter and contains admissions to violations of the Act and the  
5 Commission's regulations, as well as an agreement to cease and desist from further  
6 violations.

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8 | the agreement also includes several  
9 contentions at page three, paragraph IV.7. Respondents contend that the failure to file the  
10 missing notices was the result of an inadvertent administrative or technical error, and that  
11 the Committee did not know that the notices were not filed with the Commission until it  
12 received Requests for Additional Information ("RFAs") from the Commission's Reports  
13 Analysis Division ("RAD"). Further, Respondents contend that some of the notices were  
14 not uploaded to the Commission, even though the Committee had prepared electronic  
15 submissions using FECfile software, and that one 48-Hour Notice was uploaded but that  
16 it contained inaccurate data, specifically, information from a previously filed notice.<sup>1</sup>  
17 Finally, Respondents maintain in their contention language that prior to and after the  
18 notices in question, they have successfully and timely filed 24- and 48-Hour Notices of  
19 independent expenditures, and that in response to the Commission's enforcement action,  
20 have instituted procedures to ensure that notices are timely filed with the Commission.  
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25 | Therefore, we recommend that the Commission accept the signed  
26 conciliation agreement, approve the appropriate letters, and close the file.

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28 **RECOMMENDATIONS**

- 29  
30 1. Accept the signed conciliation agreement;  
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32 2. Approve the appropriate letters; and  
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34 3. Close the file.  
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<sup>1</sup> As noted in the First General Counsel's Report, dated February 18, 2010, after receiving RFAs regarding the missing notices, the Respondents submitted to the Commission the electronically-prepared, but unfiled, notices. See FGCR at pp. 4 and 5.

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