



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 29, 2022

BY ELECTRONIC MAIL

lamb@sandlerreiff.com

James C. Lamb
Erin Tibe
Sandler Reiff Lamb Rosenstein & Birkenstock PC
1090 Vermont Avenue, NW, Suite 750
Washington, DC 20005

RE: MUR 7682
Honor Bound PAC, f/k/a Amy McGrath for
Senate, Inc. and Chris Patton in his official
capacity as treasurer
Mark L. Nickolas

Dear Mr. Lamb and Ms. Tibe:

On March 23, 2022, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61, provisions of the Federal Election Campaign Act of 1971, as amended, and Commission regulations. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondents and the Commission. *See* 52 U.S.C. § 30109(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. Payment can be made by check payable to the Federal Election Commission or to the United States Treasury and mailed to the Federal Election Commission, Attn: Finance Department, 1050 First Street NE, Washington DC 20463. Please write "MUR 7682 (Honor Bound PAC, *et al.*) civil penalty" on the memo line of the check. Alternatively, payment can be made online by using this link: <https://www.pay.gov/public/form/start/316805379>.

MUR 7682 (Honor Bound PAC f/k/a Amy McGrath for Senate, Inc., *et al.*)

James C. Lamb and Erin Tibe

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If you have any questions, please contact me at (202) 694-1650 or ddillenseger@fec.gov.

Sincerely,

Dominique Dillenseger

Dominique Dillenseger

Attorney

Enclosure

Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 Honor Bound PAC (f/k/a Amy McGrath for Senate, Inc.)) MUR 7682
 and Chris Patton in his official capacity as treasurer)
 Mark L. Nickolas)

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn, and notarized complaint. The Federal Election Commission (the “Commission”) found reason to believe that Honor Bound PAC and Chris Patton in his official capacity as treasurer (“Honor Bound”) and Mark L. Nickolas (collectively, “Respondents”) violated 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61.

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts and law in this matter are as follows:

1. Honor Bound was the principal campaign committee within the meaning of 52 U.S.C. § 30102(e) for Amy McGrath, a candidate for U.S. Senate in Kentucky, during the 2020 election cycle.

2. Chris Patton is the treasurer of Honor Bound.

3. Mark L. Nickolas is McGrath's former campaign manager.

4. Save America Fund and Edward Galvin, in his official capacity as treasurer ("Save America Fund") is a political committee within the meaning of 52 U.S.C. § 30101(4), and is an independent-expenditure-only political committee ("IEOPC").

5. "Fire Mitch Save America" ("FMSA") is "a project of Save America Fund." On January 6, 2020, Save America Fund filed an amended Statement of Organization listing its web site address as www.firemitschsaveamerica.com. On that site, Save America Fund describes itself as: "[t]he Super PAC dedicated to replacing Mitch McConnell with Amy McGrath."

6. On January 7, 2020, FMSA's Twitter handle posted its first tweet announcing Save America Fund's formation. The same day, reporters interviewed Nickolas about Save America Fund. According to an article published by *Politico* on January 7, 2020, Nickolas, identified as McGrath's campaign manager, was quoted as stating:

This is a big deal that Eric [Hyers] will lead this effort, given his recent success in ousting the other unpopular Republican in Kentucky in a race that many didn't think was winnable. He knows this electorate better than anyone We very strongly encourage donors to give to Eric's group.

7. The Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission regulations prohibit federal candidates, officeholders, their agents, and entities, directly or indirectly established, financed, maintained, or controlled by or acting on behalf of federal candidates or officeholders, from soliciting funds in connection with a federal election "unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Act." 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. §§ 300.60, 300.61.

8. The Act limits contributions to non-authorized, non-party committees to \$5,000 in any calendar year. 52 U.S.C. § 30116(a)(1)(C). Although an IEOPC may accept contributions from corporations and individuals without regard to that \$5,000 limitation, *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010); Advisory Op. 2010-11 (Common Sense Ten), federal officeholders and candidates may only solicit up to \$5,000 from permissible sources on behalf of such committee. Advisory Op. 2011-12 (Majority PAC) at 3.

9. For purposes of 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61, the Commission defines “agent” of a federal candidate or officeholder to mean “any person who has actual authority, either express or implied, to engage in any of the following activities on behalf of” that candidate or officeholder: “solicit[ing], receiv[ing], direct[ing], transferr[ing], or spend[ing] funds in connection with any election.” 11 C.F.R. § 300.2(b), (b)(3).

10. The Commission defines “to solicit” to mean:

to ask, request, or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation is an oral or written communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting, or recommending that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation may be made directly or indirectly. The context includes the conduct of persons involved in the communication. A solicitation does not include mere statements of political support or mere guidance as to the applicability of a particular law or regulation.

11 C.F.R. § 300.2(m).

11. The record indicates that Nickolas, in his role as campaign manager of McGrath’s campaign, was acting as an agent of Honor Bound when he made his statement soliciting non-federal funds to Save America Fund.

12. Respondents violated 52 U.S.C. § 30125(e) and 11 C.F. R. § 300.61 by soliciting non-federal funds to Save America Fund.

V. Respondents will take the following actions:

1. Respondents will pay a civil penalty to the Commission in the amount of Twelve Thousand Dollars (\$12,000), pursuant to 52 U.S.C. § 30109(a)(5)(A) and 11 C.F.R. § 111.24(a)(1).

2. Respondents will cease and desist from violating 52 U.S.C. § 30125(e) and 11 C.F.R. § 300.61.

VI. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

VIII. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

IX. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lisa J. Stevenson
Acting General Counsel

BY: **Charles Kitcher**
Charles Kitcher
Associate General Counsel

Digitally signed by
Charles Kitcher
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Date

FOR THE RESPONDENTS:

James Lamb
Name: James Lamb
Position: Counsel

3-09-22
Date