

**American Democracy Legal Fund**  
**455 Massachusetts Avenue, NW**  
**Washington, DC 20001**

October 7, 2015

The Honorable David Skaggs  
Co-Chairman  
Office of Congressional Ethics  
U.S. House of Representatives  
425 3rd Street, SW, Suite 1110  
Washington, DC 20024

**Re: Complaint against Representatives Stephen Knight, Barbara Comstock, Rodney Davis, Jeff Denham, Dan Benishek, Tim Walberg, Martha McSally, David Valadao, Mike Coffman, Carlos Curbelo, David Young, Bob Dold, Mike Bost, Bruce Poliquin, Frank Guinta, Crescent Hardy, Lee Zeldin, John Katko, Will Hurd, Ryan Costello, Elise Stefanik, Daniel Donovan and Mike Bishop**

Dear Chairman Skaggs:

This letter constitutes a complaint against United States Representatives Stephen Knight, Barbara Comstock, Rodney Davis, Jeff Denham, Dan Benishek, Tim Walberg, Martha McSally, David Valadao, Mike Coffman, Carlos Curbelo, David Young, Bob Dold, Mike Bost, Bruce Poliquin, Frank Guinta, Crescent Hardy, Lee Zeldin, John Katko, Will Hurd, Ryan Costello, Elise Stefanik, Daniel Donovan and Mike Bishop, (the “Members”) pursuant to Rule 3(A) of the Office of Congressional Ethics Rules for the Conduct of Investigations. It has come to my attention that the Members have violated 31 U.S.C. § 1301 and House rules prohibiting official resources from being used for campaign or political purposes.

**I. Factual Background**

Publicly available reports indicate that the Members listed above have entered into a contract with the National Republican Congressional Committee (“NRCC”) and agreed to provide details of their legislative strategy with the NRCC in exchange for “special attention” and “campaign cash.”<sup>1</sup> The three-page “Patriot Program Contract 2015” involves a commitment by the House Members to coordinate several campaign activities with the NRCC, including creating a “detailed finance plan and budget,” raising certain amounts of money for the NRCC, and setting certain spending goals.<sup>2</sup> In addition, the contract requires participating House Members to disclose and discuss their official House actions with the NRCC. In particular, the contract

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<sup>1</sup> James Hohmann, The Daily 202, WASHINGTON POST, <http://link.washingtonpost.com/view/55775e393b35d005228b45f630pak.bxzo/d4bf1b7e>.

<sup>2</sup> Memorandum of Understanding, Patriot Program Contract 2015, *available at* [http://www.washingtonpost.com/r/2010-2019/WashingtonPost/2015/09/01/National-Politics/Graphics/NRCCpatriotcontract.pdf?wpmmm=1&wpisrc=nl\\_daily202](http://www.washingtonpost.com/r/2010-2019/WashingtonPost/2015/09/01/National-Politics/Graphics/NRCCpatriotcontract.pdf?wpmmm=1&wpisrc=nl_daily202) (last visited Sept. 30, 2015).

requires House Members to “submit and present a written off-year campaign plan to the NRCC” that should encompass the following:

Detailed, written legislative strategy that provides short-, intermediate-, and long-term legislative goals, including political justifications for those goals. Be sure to include local issues unique to the district or region. Complete a Patriot Policy Priorities worksheet to be used by NRCC staff to evaluate legislative priorities for the current Congress and to promote and advocate for those priorities where appropriate.<sup>3</sup>

Note that the Patriot Program is designed *only* for current members of the House of Representatives;<sup>4</sup> thus, the contract contemplates that the Members would have official resources available. In the contract, the candidates are referred to only as “MEMBER.” And to make it even clearer that official resources are at stake, the Members’ Chief of Staff is also listed as a contracting party and required to sign the contract separately. The Chief of Staff is referred to only using that title, and not using or referring to any separate relationship the Chief of Staff may have with a Member’s campaign.<sup>5</sup>

## II. Legal Analysis

Federal law requires that appropriations be applied only to the objects for which the appropriations were made.<sup>6</sup> According to the House Ethics Manual, “official resources of the House must, as a general rule, be used for the performance of official business of the House, and hence those resources may not be used for campaign or political purposes.”<sup>7</sup> The House Ethics Manual notes that “[a]mong the specific activities that clearly may not be undertaken in a congressional office or using House resources (including official staff time) are . . . the drafting of campaign speeches, statements, press releases or literature; . . . and the holding of a campaign meeting.”<sup>8</sup> The House Committee on Standards of Official Conduct has further interpreted 31 U.S.C. § 1301(a) to prohibit the use of congressional office equipment—such as computers, telephones, and fax machines, office supplies—such as stationary and envelopes, and congressional staff time for campaign or political purposes.<sup>9</sup>

The intent of the “Patriot Program Contract 2015” is for Members to use the official resources available to them to coordinate and detail their legislative strategies and plans with the NRCC. The contract’s reference to the “MEMBER” and the explicit reference to, and separate signature line for, the Members’ Chief of Staff, makes clear that the contract is intended to reflect the Members’ official role. In that context, the demand for a legislative strategy plainly contemplates the use of official resources to accomplish that task.

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<sup>3</sup> *Id.*

<sup>4</sup> Hohmann, *supra* note 1.

<sup>5</sup> See Memorandum of Understanding, Patriot Program Contract 2015, *supra* note 2.

<sup>6</sup> 31 U.S.C. § 1301(a).

<sup>7</sup> Committee on Standards of Official Conduct, *House Ethics Manual* at 125-128 (2008 ed.).

<sup>8</sup> *Id.* at 124.

<sup>9</sup> *Id.* at 123.

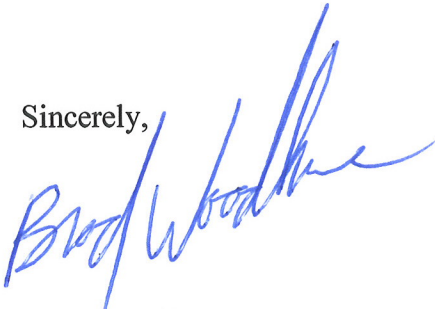
The House Ethics Manual provides that House employees may engage in campaign activities on their “own time, as volunteers or for pay, as long as they do not do so in congressional offices or facilities, or otherwise use official resources.”<sup>10</sup> If the Members and their staff use legislative plans and strategies crafted during House working periods and using House resources as required by the contract, they will violate federal law and House Ethics rules. Additionally, if the Members draft speeches, produce literature, or hold meetings on official time that are intended to be used to satisfy their obligations to the NRCC that too would violate federal law and House Ethics rules. Thus, it appears likely that the intent of the contract, and of the Members and their Chiefs of Staff who sign it, is to flagrantly abuse taxpayer resources for partisan gain.

#### IV. Conclusion

This Office has jurisdiction to investigate any allegation that a Member of Congress has violated any “law, rule, regulation or other standard of conduct” in the performance of his or her duties or the discharge of his or her responsibilities.<sup>11</sup> I therefore respectfully request that you investigate this matter promptly.

I understand that 18 U.S.C. § 1001 applies to the information I am providing.

Sincerely,



Brad Woodhouse,

American Democracy Legal Fund

Enclosures

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<sup>10</sup> *Id.* at 135.

<sup>11</sup> Office of Congressional Ethics Rule 1.

**Memorandum of Understanding  
Patriot Program Contract 2015**

The NRCC, with the participation and support of its entire Membership, agrees with **MEMBER** on the following on this 22<sup>nd</sup> day of April 2015:

- 1) **MEMBER** agrees to have no less than:
  - a. \_\_\_\_\_ in cash-on-hand at the end of Q1.
  - b. \_\_\_\_\_ in cash-on-hand at the end of Q2.
  - c. \_\_\_\_\_ in cash-on-hand at the end of Q3.
  - d. \_\_\_\_\_ in cash-on-hand at the end of Q4.
  
- 2) **MEMBER** agrees to consult with and provide the NRCC with the creation and execution of a detailed finance plan and budget to meet or surpass the goals outlined in point #1 above. The campaign finance plan and budget will be presented to the NRCC for review no later than \_\_\_\_\_ (date).
  
- 3) **MEMBER's Finance Director** will report weekly to the Field Finance Director updating them on COH, total left to raise for the quarter, and give an update on how call time and events are proceeding.
  
- 4) **MEMBER** will create a JFC with the NRCC and use the JFC when surrogates travel to the district for events.
  
- 5) **MEMBER** will raise a minimum NRCC Patriot Assessment of \$100,000 to the NRCC in 2015.
  
- 6) **MEMBER** will spend no more than \_\_\_\_\_ % of funds raised in any quarter of 2015 (not including contributions to their State Party or the NRCC).
  
- 7) **MEMBER** will work with the NRCC Digital Department to create an aggressive cycle-long online fundraising plan that sets fundraising goals by month. Campaigns that consistently fail to reach monthly fundraising goals, and display a lack of effort and best practices, are subject to direct involvement from the NRCC online fundraising team.
  
- 8) **MEMBER** agrees to submit and present a written **off-year** campaign plan to the NRCC by \_\_\_\_\_ (date) that encompasses the following:
  - Comprehensive fundraising and spending analysis of 2014 election cycle. Analysis will include all donors from 2014, and a detailed breakdown of the number of in state vs. out of state donors, individual vs. PAC donors, and max out donors to identify strengths and weaknesses for the development of 2016 Finance Plan.
  
  - District Off-year Outreach Plan outlining event schedule and demographic targets. Should also complete a Coalitions Self-Assessment form to be used by NRCC staff to immediately identify areas

of greatest need and begin outreach in conjunction with campaign and local contacts. This should include women, minority groups, veterans, seniors, youth, and conservatives.

- Detailed, written communications plan for the on- and off-year with earned media calendar and proactive press initiatives. Must participate in member media trainings and press secretary trainings.
- Detailed, written legislative strategy that provides short-, intermediate-, and long-term legislative goals, including political justifications for those goals. Be sure to include local issues unique to the district or region. Complete a Patriot Policy Priorities worksheet to be used by NRCC staff to evaluate legislative priorities for the current Congress and to promote and advocate for those priorities where appropriate.
- Data plan, including information about how data is being stored, handled, and updated as well as a point of contact for data related matters and a review of data with NRCC team.

NRCC agrees to provide best practices for the above plan.

- 9) **MEMBER** agrees to exclusively use the services of staff and vendors who meet the NRCC's standards for quality and confidence. These services may include (but are not be limited to) polling, mail, media, digital, fundraising, legal/compliance and research services. **MEMBER** agrees to submit the names of these vendors and any existing contracts for their services to the NRCC.

NRCC agrees to provide best practices to support contract negotiation and evaluation.

- 10) **MEMBER** will have a lawyer on retainer in his or her district, who is also certified to practice law in the Member's state, who will be able to assist the campaign with general compliance, ad pulls and defenses, as well as any other legal duties necessary during the campaign and post-election.
- 11) **MEMBER** will attend all Patriot Day Summit functions and will give best effort to attend all Patriot meetings at the NRCC.
- 12) **MEMBER, Chief of Staff, or designee** will return to the NRCC for a Patriot Program meeting with all required completed materials by \_\_\_\_\_.
- 13) **MEMBER, Chief of Staff, and designee** will give best effort to attend NRCC Campaign Continuing Education programs.
- 14) **MEMBER** agrees to identify a political contact within their operation for the NRCC to contact as needed:

Name: \_\_\_\_\_

Personal Email Address: \_\_\_\_\_

Personal Phone Number: \_\_\_\_\_

Campaign Committee Name: \_\_\_\_\_

NRCC agrees to provide Member with points of contact at the NRCC:

Political Director – John Rogers [jrogers@nrcc.org](mailto:jrogers@nrcc.org)

Regional Political Director – George Nassar [gnassar@nrcc.org](mailto:gnassar@nrcc.org)

Political Coordinator – Kate Possehl [kpossehl@nrcc.org](mailto:kpossehl@nrcc.org)

I want to be listed publicly as a member of the NRCC's Patriot Program

**Agreed to by:**

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**For the NRCC**

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**For the NRCC**

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**Rep. Steve Knight**

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**Chief of Staff**


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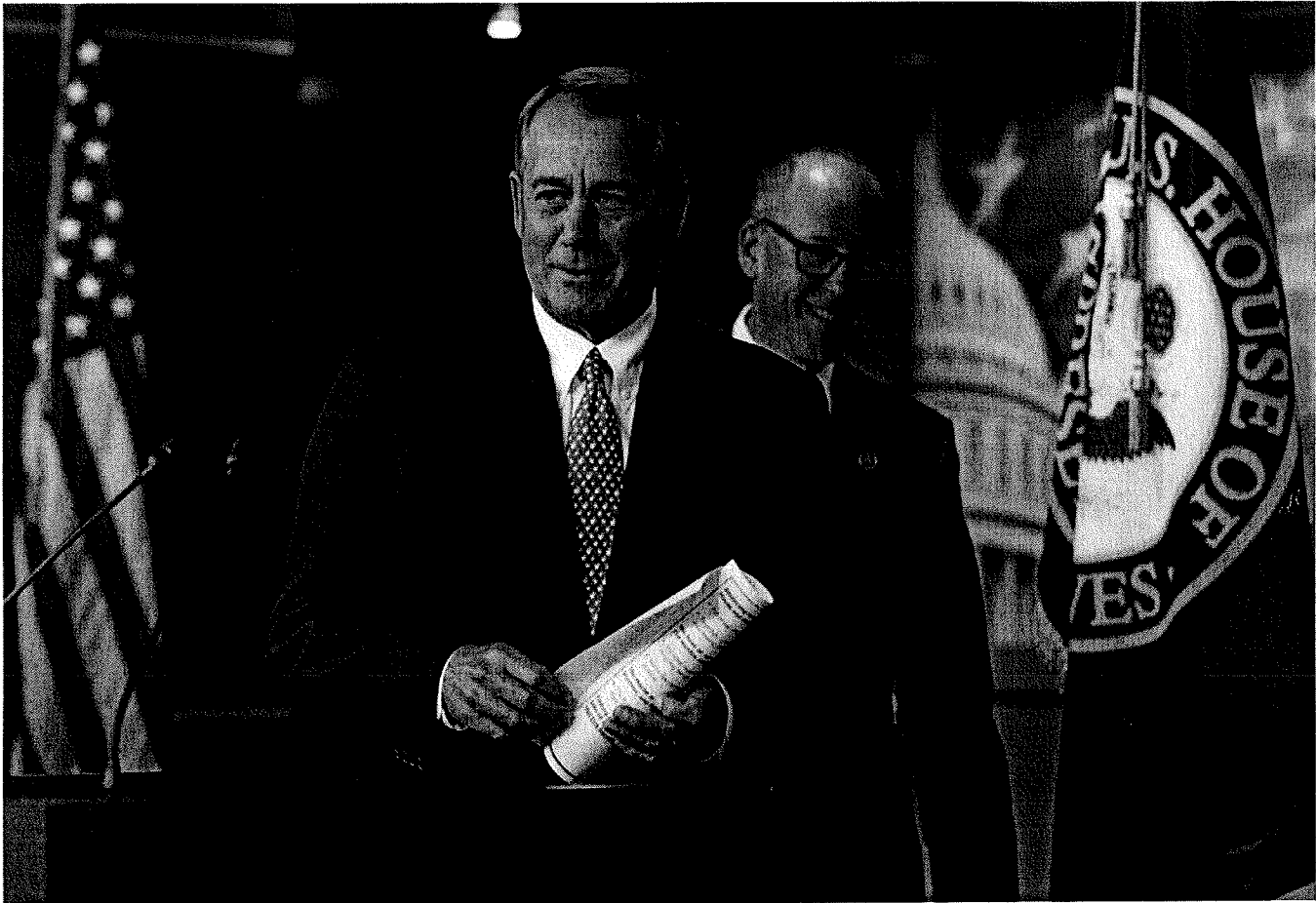
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Speaker John Boehner and NRCC chairman Greg Walden (AP Photo)



BY JAMES HOHMANN

**THE BIG IDEA:** Two dozen House Republicans have agreed to privately detail their “legislative strategy” to party operatives, promising to offer “political justifications” for their goals in Congress.

The Daily 202 obtained a copy of the three-page contract that the National Republican Congressional Committee requires members to sign if they want to participate in its Patriot Program. The initiative, designed to protect potentially vulnerable incumbents, brings with it special attention and access to mounds of campaign cash. But strings are attached.

One of the 13 requirements is to submit an off-year “campaign plan” that includes: “Detailed, written legislative strategy that provides short-, intermediate-, and long-term legislative goals, including political justifications for those goals.”

“Be sure to include local issues unique to the district or region,” the contract says. “Complete a Patriot Policy Priorities worksheet to be used by NRCC staff to evaluate legislative priorities for the current Congress and to promote and advocate for those priorities where appropriate.”

The closely-held document offers a window into how much autonomy lawmakers often must forfeit to unelected Washington insiders. For instance, in exchange for reelection support, lawmakers must promise to exclusively use vendors sanctioned by establishment-aligned party chieftains, attend training sessions and raise six figures for the NRCC. They must also commit to holding a certain amount of cash-on-hand at the end of each fundraising quarter and



limit their spending. These goals are tailored to the individual member, so someone who sits on a prominent committee (say Financial Services) would be expected to bring in a bigger haul. And let's face it, some of the goals are simply smart ways for members to prepare early in the era of the permanent campaign.

NRCC officials defended the program, begun in 2009, as voluntary and described the document as routine, saying they assume that the Democratic Congressional Campaign Committee makes members of its "Frontline" program sign a similar document.

Attorneys who work with Democratic committees responded that it's not standard operating procedure, saying that they're careful to never be so explicit when it comes to mixing legislating and campaigning.

**Here are Republicans members who are in the Patriot Program and apparently signed the contract:** Barbara Comstock, Rodney Davis, Jeff Denham, Dan Benishek, Tim Walberg, Martha McSally, David Valadao, Mike Coffman, Carlos Curbelo, David Young, Bob Dold, Mike Bost, Bruce Poliquin, Frank Guinta, Crescent Hardy, Lee Zeldin, John Katko, Will Hurd, Ryan Costello, Steve Knight, Elise Stefanik, Dan Donovan and Mike Bishop. Interestingly, the contract appears to give members the opportunity to be part of the Patriot Program without being publicly listed. **Read the full "memorandum of understanding" here.**

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With contributions by Elise Viebeck.