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Chairman Terry Lathan  
Alabama Republican Executive Committee  
3505 Lorna Road  
Birmingham, AL, 35216

DELIVERED VIA EMAIL

Dear Chairman Lathan

This is a petition to deny Attorney General Steve Marshall the privilege of certification as the nominee of the Alabama Republican Party (ALGOP) for attorney general in the 2018 general election.

Mr. Marshall is unworthy of nomination because he has not returned \$735,000 in unlawful campaign contributions from the Republican Attorneys General Association (RAGA), a nonprofit 527 organization prohibited by Alabama law from contributing funds to Alabama Political Action Committees (PACs), to include the Principle Campaign Committees of candidates. Running such a flawed person to be the state's chief of law enforcement who is also the co-chair of the ongoing Ethics Reform Commission will be a huge embarrassment that the Democrat Party will use to defeat him and in the process damage the entire Republican ticket.

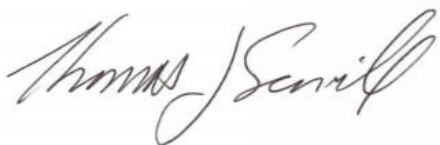
Contrary to what some have said, it is simply a dodge and an affront to the 10<sup>th</sup> Amendment to suggest Alabama does not have the authority to regulate all aspects of campaign finance for Alabama elections. Indeed, campaign finance reform is a signature issue of the Alabama Republican Party and it played a key role in the achieving a Republican majority in 2010 and maintaining it since. Mr. Marshall's lawbreaking challenges the credibility of the ALGOP.

The recent actions of the ALGOP during the week before the recent primary election to censure James Bonner and not count his votes in a state-wide race for the Public Service Commission provide ample precedent for not certifying Mr. Marshall. Mr. Bonner's alleged lack of decorum offended the ALGOP, a minor issue compared to the probable cause that Mr. Marshall has broken Alabama law. This precedence means that a criminal conviction is not necessary for the ALGOP to act, avoiding embarrassment and protecting the general election ticket and credibility of the Republican Party is sufficient.

I am confident that Republican leaders will do the right thing.

Supporting facts, discussion and references are attached.

Sincerely,



## **Discussion**

### **Is this a 527 or PAC to PAC transfer issue?**

Saying as some have that RAGA and RAGA Action fund are separate distinct organizations and that entities which also play in federal elections can ignore Alabama law is no more than a specious dodge.

Mr. Marshall received \$735,000 in unlawful contributions from a 527 organization. He is obliged by law to return the unlawful contributions and has not.

Although they have not registered as PACs in Alabama, under the meaning of Alabama law, RAGA and its affiliate, the RAGA Action Fund (which does seem to be separate and distinct from RAGA), can also be considered Alabama PACs because each as received contributions and made expenditures to affect an election in Alabama. And both of these entities have received contributions from other PACS. Alabama law prohibits such exchanges.

If RAGA had registered as an Alabama PAC, refused contributions from other PACs, not contributed to PACs which are not also candidate principle campaign committees, and complied with Alabama requirements and schedule for reporting contributions and expenditures, RAGA could have made contributions directly to the Marshall campaign. But RAGA did not.

RAGA reported to the IRS making contributions directly to the Marshall campaign. The Marshall campaign reported receiving the contributions from RAGA action fund. Because RAGA IRS reports do not list contributions to the RAGA Action Fund, it is unclear whether RAGA Action Fund actually received any money from RAGA.

For the issue of unlawful contributions, it does not matter whether the money was laundered through RAGA Action fund because RAGA Action Fund also meets the legal definition of an Alabama PAC and accordingly, it cannot accept contributions from other PACs (like RAGA is under the meaning of Alabama law) or from 527 organizations (like RAGA) because these contributions are banned by Alabama law.

RAGA reports to the IRS also list contributions to RAGA from other PACs.

RAGA Action Fund being registered as a PAC with the Federal Election Commission does not excuse it from complying with Alabama law which does not conflict with federal law. The US government and its FEC regulate federal elections. And the 10<sup>th</sup> Amendment to the US Constitution assures that Alabama can regulate its state elections.

Also, RAGA Action Fund registering as a PAC with the Federal Election Commission is curious because RAGA per its mission statement is not involved in federal elections. This suggests that registering with the FEC may be an attempt to dodge Alabama law.

Another curiosity is that in 2014 RAGA Action Fund did register as an Alabama PAC, but after AG Luther returned their contribution when the legality of the contribution was contested, RAGA Action Fund closed its Alabama registration and has not renewed it since. It seems RAGA and RAGA Action Fund tried to comply with Alabama law in 2014 and then gave up.

### **Steve Marshall.**

- Marshall is a candidate for attorney general of Alabama.
- Marshall is the attorney general of Alabama and co-chair of the state's ongoing Code of Ethics Clarification and Reform Commission.
- Marshall has a responsibility as the attorney general to know and enforce Alabama campaign finance law and to uphold the law when it is challenged in court.
- As attorney general and senior Republican leader, Marshall has not noted any problem with Alabama law regarding 527 organizations and PACs.
- As an incumbent Republican attorney general, Marshall is a member of RAGA,
- Marshall has reported receiving \$735,000 in contributions from the RAGA Action Fund, a PAC that has registered with the Federal Election Commission and which has not registered with the state of Alabama.
- Marshall has not reported receiving in-kind contributions from RAGA or from RAGA Action Fund.
- Marshall has not reported returning any contributions to RAGA Action Fund or to RAGA.

### **The Republican Attorneys General Association (RAGA).**

- RAGA is a 527 organization whose purpose is the election of Republican state attorneys general. RAGA has not stated any role or purpose in federal elections.
- RAGA is not involved in federal elections and does not interact with the Federal Elections Commission (FEC).
- As a 527 organization, RAGA makes periodic reports to the IRS on the contributions it receives and the expenditures it makes on a quarterly basis.
- In its reports to the IRS, RAGA reports giving \$735,000 to the Marshall campaign.
- RAGA is an Alabama PAC because it has raised and spent more than \$1,000 on behalf of an Alabama candidate, Mr. Marshall.
- Contrary to Alabama law, RAGA has not registered with nor made required periodic campaign finance reports to the Alabama Secretary of State.
- In its reports to the IRS, RAGA does not report making any contributions to the RAGA Action Fund.
- RAGA mission statement (<https://www.republicanags.com/about/>)

**RAGA Mission.** The Republican Attorneys General Association (RAGA) is the only national organization whose mission is electing Republicans to the Office of State Attorney General. RAGA collaborates with our current Republican

attorneys general and recruits outstanding candidates, providing them assistance with research, message development and financial support.

### **RAGA Action Fund.**

- RAGA Action Fund is a federally registered PAC affiliated with RAGA, although there is no reason to have done so because according to the RAGA mission it does not play in federal elections). RAGA Action Fund does not appear to be separate or distinct from the RAGA in any significant way.
- In its reports to the IRS, RAGA has reported contributions to the Marshall campaign.
- In its reports to the IRS, RAGA has not reported any contributions to the RAGA Action Fund.
- In its reports to the FEC, RAGA Action Fund reports receiving contributions from RAGA and making contributions to the Marshall campaign.
- RAGA Action Fund is an Alabama PAC because it has raised and spent more than \$1,000 on behalf of an Alabama candidate, Mr. Marshall.
- Contrary to Alabama law, RAGA Action Fund has not registered with nor made required periodic campaign finance reports to the Alabama Secretary of State.
- In 2014, RAGA Action Fund did register as an Alabama PAC. It made contributions to then Attorney General Luther Strange which were returned. RAGA Action Fund terminated its Alabama registration later in 2014 and has not registered again.
- In 2017, to comply with Virginia law, the RAGA registered as a Virginia PAC.  
<https://www.skadden.com/insights/publications/2017/04/raga-registers-main-account-as-virginia-pac>

### **Troy King.**

- On July 25, King, a candidate for attorney general, requested a temporary restraining order in Montgomery circuit court to prevent the Marshall campaign from spending the unlawful contributions from RAGA Action Fund. In a hearing on July 26, Alabama circuit Judge Anderson said he did not have jurisdiction in the case and denied the request. Judge Anderson did not rule on the lawfulness of the RAGA and RAGA Action fund contributions.
- King has made an ethics complaint against Marshall to the Alabama Ethics Commission.
- King ethics complaint. [https://www.scribd.com/document/383522855/2018-07-09-Marshall-Complaint-002#from\\_embed](https://www.scribd.com/document/383522855/2018-07-09-Marshall-Complaint-002#from_embed)
- King lawsuit, [https://media.wiat.com/nxs-wiattv-media-us-east-1/document\\_dev/2018/07/11/marshall%20king%20complaint%20and%20motion\\_1531329898485\\_48300078\\_ver1.0.pdf](https://media.wiat.com/nxs-wiattv-media-us-east-1/document_dev/2018/07/11/marshall%20king%20complaint%20and%20motion_1531329898485_48300078_ver1.0.pdf)
- Montgomery County Circuit judge dismisses King request for a TRO, [https://www.al.com/news/index.ssf/2018/07/ag\\_marshall\\_opens\\_the\\_door\\_aga.html](https://www.al.com/news/index.ssf/2018/07/ag_marshall_opens_the_door_aga.html)

**Alabama Fair Campaign Practices Act (full text).** See Title 17 at the link below for full text of the Alabama fair Campaign Practices Act.

<http://alisondb.legislature.state.al.us/alison/CodeOfAlabama/1975/Coatoc.htm>

## **Alabama Fair Campaign Practices Act (excerpts with reformatting for clarity).**

### **Section 17-5-2 Definitions.**

(13) **POLITICAL ACTION COMMITTEE.** Any committee, club, association, political party, or other group of one or more persons, whether in-state or out-of-state, which receives or anticipates receiving contributions and makes or anticipates making expenditures to or on behalf of any Alabama state or local elected official, proposition, candidate, principal campaign committee or other political action committee. For the purposes of this chapter, a person who makes a political contribution shall not be considered a political action committee by virtue of making such contribution.

(15) **PRINCIPAL CAMPAIGN COMMITTEE.** The principal campaign committee designated by a candidate under Section 17-5-4. A political action committee established primarily to benefit an individual candidate or an individual elected official shall be considered a principal campaign committee for purposes of this chapter.

### **Section 17-5-7.1**

#### **Return or refund of contributions.**

(b) Notwithstanding any other provision of law, a principal campaign committee or political action committee shall promptly return or refund, in full, any unlawful contribution. It shall be unlawful for any person acting on behalf of a principal campaign committee or political action committee to retain or cause to be retained a contribution that the person knows or reasonably should know was made in violation of this chapter. It is a defense to prosecution that the unlawful contribution was returned or refunded in full within 10 days of the date the contribution was made.

*(Act 2013-311, p. 1060, §2.)*

### **Section 17-5-15**

#### **Contributions by one person in name of another; contributions between political action committees, etc.**

(b) **It shall be unlawful for any political action committee or tax exempt political organization under 26 U.S.C. § 527, including a principal campaign committee, or any person authorized to make an expenditure on behalf of such political action committee or 527 organization, to make a contribution, expenditure, or any other transfer of funds to any other political action committee or 527 organization.**

It shall be unlawful for any principal campaign committee or any person authorized to make an expenditure on behalf of such principal campaign committee to make a contribution, expenditure, or other transfer of funds to any

other principal campaign committee, except where the contribution, expenditure, or any other transfer of funds is made from a principal campaign committee to another principal campaign committee on behalf of the same person.

Notwithstanding the foregoing, a political action committee that is not a principal campaign committee may make contributions, expenditures, or other transfers of funds to a principal campaign committee; and a separate segregated fund established by a corporation under federal law, if the fund does not receive any contributions from within this state other than contributions from its employees and directors, is not restricted by this subsection in the amount it may transfer to a political action committee established under the provisions of Section 17-5-14.1 by the same or an affiliated corporation.

***(Acts 1988, 1st Ex. Sess., No. 88-873, p. 397, §18; §17-22A-18; amended and renumbered by Act 2006-570, p. 1331, §24; Act 2010-765, 1st Sp. Sess., p. 38, §2; Act 2013-311, p. 1060, §1.)***

### **Alabama Secretary of State Guidance to PACs.**

<https://sos.alabama.gov/sites/default/files/election-2018/PAC%20Guidelines.pdf>

Guidance from the Alabama Secretary of State does not exempt federal committees from complying with Alabama law.

### **PROHIBITED SOURCES & DISTRIBUTION OF FUNDS**

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The FCPA prohibits a PAC from making expenditures to or receiving contributions from the following types of entities [*§17-5-15(b)*]:

- ▶ Other PACs
- ▶ 527 organizations

*§17-5-15(b)* states that a PAC that is not a principal campaign committee and may make contributions, expenditures, or other transfers of funds to a principal campaign committee (PCC). However, the FCPA prohibits principal campaign committees (PCCs) from making contributions, expenditures, or other transfers of funds to PACs.

## **FEDERAL ELECTIONS**

PACs participating in federal elections are subject to federal campaign finance law and regulations.

These PACs should call or write the Federal Election Commission for filing information.

Telephone:

1-800-424-9530

Mail:

Federal Election Commission  
999 E. Street, NW  
Washington, DC 20463

### **Q &A on 527 Organizations by the Center for Public Integrity**

<https://www.publicintegrity.org/2005/11/21/5541/527s-frequently-asked-questions>

#### **Can 527s help state candidates?**

At the state level, the rules are different. Section 527 organizations generally can, and frequently do, give money directly to state and local candidates. In most cases, however, these groups must abide by state laws, which include registering with state elections authorities and filing financial reports disclosing the contributions to state candidates as well as the sources of those contributions. Of course, every state has different rules that govern committees like this.

#### **Can 527s help federal candidates?**

On the federal level, 527s cannot coordinate with or contribute to a federal candidate in any way. They also may not expressly advocate for the election or defeat of a specific federal candidate, although 527s are quite free to portray federal candidates in such a way that there is little doubt as to the message.

### **Alabama Secretary of State Campaign Finance Data Base.**

<http://fcpa.alabamavotes.gov/PublicSite/Search.aspx>

### **Marshall campaign finance report to the secretary of state (example),**



# FORM 2: Contributions

received by candidate or elected official

NAME OF CANDIDATE OR ELECTED OFFICIAL: **STEVE MARSHALL**

When total contributions from a single source exceed \$100.00, the FCPA requires all contributions from that source to be itemized. **DO NOT LIST** in-kind contributions or loans on this form. Use forms 3 and 4 for those listings.

CONTRIBUTOR (INCLUDE FULL NAME)	ADDRESS (ADDRESS SHOULD INCLUDE STREET OR P.O. BOX, CITY, STATE, AND ZIP)	SOURCE OF CONTRIBUTION (CHECK ONE)					DATE CONTRIBUTION RECEIVED (month/day/yr)	AMOUNT OF CONTRIBUTION
		Business or Corporation	Individual	PAC	Other	Returned		
STEWART DANSBY	1330 21ST WAY SOUTH, SUITE 210 BIRMINGHAM, AL 35205		X				07/07/2018	\$500.00
EDWARD L. HARDIN, JR.	P.O. BOX 530567 BIRMINGHAM, AL 35253		X				07/07/2018	\$1,000.00
AIRBRIDGE ONE, LLC	2641 INTERSTATE DRIVE OPELIKA, AL 36801	X					07/09/2018	\$5,000.00
PEGGY H. ALLEN	238 WETUMPKA STREET PRATTVILLE, AL 36067		X				07/09/2018	\$250.00
RICHARD H. ALLEN	6415 PHILADELPHIA HILL MONTGOMERY, AL 36117		X				07/09/2018	\$500.00
CMG PAC II	1629 MCFARLAND BOULEVARD NORTH, SUITE 401 TUSCALOOSA, AL 35408			X			07/09/2018	\$3,500.00
J. LISTER HUBBARD	P.O. BOX 2069 MONTGOMERY, AL 36102		X				07/09/2018	\$150.00
HENRY H. HUTCHINSON	P.O. BOX 403 MONTGOMERY, AL 36101		X				07/09/2018	\$100.00
D. KYLE JOHNSON	2123 BOWEN DRIVE MONTGOMERY, AL 36106		X				07/09/2018	\$250.00
WILLIAM K. MARTIN	9355 VAUGHN ROAD PIKE ROAD, AL 36064		X				07/09/2018	\$250.00
PFIZER, INC.	6730 LENOX CENTER CT MEMPHIS, TN 38815	X					07/09/2018	\$5,000.00
PHRMA	950 F STREET, N.W., SUITE 300 WASHINGTON, DC 20004	X					07/09/2018	\$5,000.00
RAGA ACTION FUND	1747 PENNSYLVANIA AVENUE, N.W., SUITE 800 WASHINGTON, DC 20006			X			07/09/2018	\$300,000.00
SCOTT BRIDGE COMPANY, INC.	2641 INTERSTATE DRIVE OPELIKA, AL 36801	X					07/09/2018	\$5,000.00
JAMES N. WALTER, JR.	3525 OAK GROVE CIRCLE MONTGOMERY, AL 36116		X				07/09/2018	\$500.00
M. COURNEY WILLIAMS	3629 LOCKWOOD LANE MONTGOMERY, AL 36111		X				07/09/2018	\$100.00
FORM REVISED ON 11-22-2012	<b>TOTAL CASH CONTRIBUTIONS</b>							\$327,100.00



Federal Elections Commission.

The FEC data base can be searched at this link: <https://www.fec.gov/data/>



Below is an example from the FEC data base which shows a RAGA Action Fund report of a contribution from RAGA.

**Select data type** ◀

**Receipts** Export

DATA TYPE

This data has been categorized and coded by the FEC. The FEC's multi-step process can take days (for electronic filings) or weeks (for paper filings).

**Edit filters (3)**

RECIPIENT NAME OR ID  
 RAGA ACTION FUND (CO0560904)

CONTRIBUTOR NAME OR ID

TRANSACTION TIME PERIOD

Viewing about **10** filtered results for: Clear all filters **x**

Data type: processed RAGA ACTION FUND (CO0560904) x 01/01/2017 - 07/18/2018

Contributor name	Recipient	Election	State	Receipt date	Amount	
MIKE HUNTER FOR ATTORNEY GENERAL 2018	RAGA ACTION FUND	PRIMARY	OK	06/26/2018	\$5,000.00	
REPUBLICAN ATTORNEYS GENERAL ASSOCIATION-INDIVIDUAL ACCOUNT	RAGA ACTION FUND	PRIMARY	DC	06/15/2018	\$10,000.00	
REPUBLICAN ATTORNEYS GENERAL ASSOCIATION	RAGA ACTION FUND	PRIMARY	DC	06/01/2018	\$150,025.67	
REPUBLICAN ATTORNEYS GENERAL ASSOCIATION	RAGA ACTION FUND	PRIMARY	DC	05/29/2018	\$35,000.00	
REPUBLICAN ATTORNEYS GENERAL ASSOCIATION	RAGA ACTION FUND	PRIMARY	DC	05/24/2018		Feedback

Below is an example from the FEC data base which shows a RAGA Action Fund reporting expenditures to the Mr. Marshall campaign.

FEC. The FEC's multi-step process can take days (for electronic filings) or weeks (for paper filings).

**Edit filters (3)**

SPENDER NAME OR ID  
 RAGA ACTION FUND (CO0560904)

RECIPIENT NAME OR ID

TRANSACTION TIME PERIOD

2017-2018

Beginning: 01/01/2017 Ending: 07/18/2018

Spender details

Spender	Recipient	State	Description	Disbursement date	Amount	
RAGA ACTION FUND	FRIENDS OF WAYNE STENEHJEM	ND	NONFEDERAL CONTRIBUTION-INDIVIDUAL DOLLARS	06/15/2018	\$10,000.00	
RAGA ACTION FUND	STEVE MARSHALL FOR ALABAMA, INC.	AL	NONFEDERAL CONTRIBUTION	06/01/2018	\$150,000.00	
RAGA ACTION FUND	STEVE MARSHALL FOR ALABAMA, INC.	AL	IN-KIND RESEARCH	05/29/2018	\$18,500.00	
RAGA ACTION FUND	STEVE MARSHALL FOR ALABAMA, INC.	AL	NONFEDERAL CONTRIBUTION	05/29/2018	\$35,000.00	
RAGA ACTION FUND	MIKE HUNTER FOR ATTORNEY GENERAL 2018	OK	NONFEDERAL CONTRIBUTION-INDIVIDUAL DOLLARS	04/26/2018	\$5,000.00	

## IRS.

IRS web pages for information for political organizations are shown below.

<https://www.irs.gov/charities-non-profits/political-organizations>

<https://www.irs.gov/charities-non-profits/political-organizations/political-organization-filing-and-disclosure>

Search for From 872 financial disclosures at this link.

<https://forms.irs.gov/app/pod/basicSearch/search?execution=e1s1&format=>

Example of a PAC contributing to RAGA.

washington, DC 20037	N/A Aggregate contributions year-to-date \$ 25500	\$ 500 Date of contribution 04/26/2018
<b>Contributor's name, mailing address and ZIP code</b> American Bail Coalition Inc P.O. Box 352 Franklinville, NJ 08322	<b>Name of contributor's employer</b> N/A <b>Contributor's occupation</b> N/A Aggregate contributions year-to-date \$ 50000	<b>Amount of contribution</b> \$ 50000 <b>Date of contribution</b> 05/24/2018
<b>Contributor's name, mailing address and ZIP code</b> Enterprise Holdings, Inc. PAC 600 Corporate Park Drive Saint Louis, MO 63105	<b>Name of contributor's employer</b> N/A <b>Contributor's occupation</b> N/A Aggregate contributions year-to-date \$ 25000	<b>Amount of contribution</b> \$ 25000 <b>Date of contribution</b> 06/11/2018
<b>Contributor's name, mailing address and ZIP code</b> Citizens for a Working America, Inc. 429 North Saint Asaph St. Alexandria, VA 22314	<b>Name of contributor's employer</b> N/A <b>Contributor's occupation</b> N/A Aggregate contributions year-to-date \$ 465000	<b>Amount of contribution</b> \$ 375000 <b>Date of contribution</b> 06/18/2018
<b>Contributor's name, mailing address and ZIP code</b> ACA International 4040 W 70th St. Edina, MN 55435	<b>Name of contributor's employer</b> N/A <b>Contributor's occupation</b> N/A Aggregate contributions year-to-date \$ 375000	<b>Amount of contribution</b> \$ 375 <b>Date of contribution</b> 06/18/2018

Example of RAGA contributing to Steve Marshall

<b>Recipient's name, mailing address and ZIP code</b> ePay Business Solutions, Inc. 19 Midstate Drive, Ste. 110 Auburn, MA 01501	<b>Name of recipient's employer</b> N/A <b>Recipients' occupation</b> N/A	\$ 93 <b>Date of expenditure</b> 06/27/2018
<b>Purpose of expenditure</b> Payroll fee		
<b>Recipient's name, mailing address and ZIP code</b> Omni Dallas Hotel 555 S Lamar St. Dallas, TX 75202	<b>Name of recipient's employer</b> N/A <b>Recipients' occupation</b> N/A	<b>Amount of Expenditure</b> \$ 1368 <b>Date of expenditure</b> 05/27/2018
<b>Purpose of expenditure</b> Travel: Lodging		
<b>Recipient's name, mailing address and ZIP code</b> Steve Marshall for Alabama, Inc. PO Box 3537 Montgomery, AL 36109	<b>Name of recipient's employer</b> N/A <b>Recipients' occupation</b> N/A	<b>Amount of Expenditure</b> \$ 15000 <b>Date of expenditure</b> 06/01/2018
<b>Purpose of expenditure</b> Contribution		