

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	}	
	}	
<b>Plaintiff,</b>	}	
	}	
<b>vs.</b>	}	<b>Case No.: 2:10-CR-186-MHT-WC</b>
	}	
<b>ROBERT B. GEDDIE, JR.,</b>	}	
	}	
<b>Defendant.</b>	}	

**DEFENDANT ROBERT GEDDIE’S PROPOSED JURY INSTRUCTIONS**

Defendant Robert Geddie adopts the Proposed Jury Instructions (Doc. #1195), filed by Defendant McGregor on Friday, May 27, 2011, and additionally submits the attached Supplemental Jury Instructions.

Respectfully submitted,

Dated: Friday, May 27, 2011

/s/ Jackson R. Sharman, III  
One of the Attorneys for Defendant,  
Robert B. Geddie, Jr.

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**SUPPLEMENTAL JURY INSTRUCTION ONE:**

**Obstruction of Justice**

Count Thirty-Nine charges Robert Geddie with corruptly obstructing, influencing, or impeding an official proceeding.

The Indictment alleges that Mr. Geddie instructed an employee to alter a contribution ledger to falsely reflect that two PAC contributions totaling \$5,000 were not made on behalf of Mr. McGregor but instead were made on behalf of two other clients. The Indictment further alleges that Mr. Geddie caused the altered contribution ledgers to be produced to the Grand Jury.

A defendant can be found guilty of that crime only if the Government has proven each of the following facts beyond a reasonable doubt:

**FIRST:** The Defendant committed an obstructive act – that is, an act which obstructed, influenced, or impeded an official proceeding or attempted to obstruct, influence, or impede an official proceeding; and

**SECOND:** The Defendant committed the obstructive act knowingly – that is, voluntarily and intentionally and not because of a mistake or by accident; and

**THIRD:** The Defendant committed the obstructive act corruptly – that is, voluntarily, deliberately, and dishonestly and with the specific and wrongful intent to subvert, impede, or obstruct the official proceeding; and

**FOURTH:** The official proceeding was reasonably foreseeable at the time the defendant committed the obstructive act; and

**FIFTH:** It was reasonably foreseeable that the defendant's obstructive act would interfere with the official proceeding – that is, obstruction of an official

proceeding was the natural and probable consequence of the defendant's obstructive act.

If the Government is unable to prove any of the above facts beyond a reasonable doubt, then you must find Mr. Geddie not guilty.

To "obstruct, influence, or impede" is to do something to sway or change or prevent any action likely to be taken during the official proceeding.

An "official proceeding" may be a proceeding before a judge or grand jury of this Court. But an "official proceeding" does not include an investigation by a federal agency, such as the Department of Justice, the Federal Bureau of Investigation, or the Office of the United States Attorney for the Middle District of Alabama; the Governor of Alabama; or the Alabama Bureau of Investigation.

GIVEN: \_\_\_\_\_

REFUSED: \_\_\_\_\_

**AUTHORITY:**

(1) Eleventh Circuit Pattern Jury Instruction (Criminal Cases, 2010): On or About; Knowingly; Willfully – Generally [9.1A]; and Obstruction of Justice Omnibus Clause [58.1].

(2) United States v. Aguilar, 515 U.S. 593, 599 (1995) ("The action taken by the accused must be with an intent to influence judicial or grand jury proceedings; it is not enough that there be an intent to influence some ancillary proceeding, such as an investigation independent of the court's or grand jury's authority. Some courts have phrased this showing as a 'nexus' requirement – that the act must have a relationship in time, causation, or logic with the judicial proceedings.").

(3) United States v. Phillips, 583 F.3d 1261, 1264 (10th Cir. 2009) (applying Aguilar's nexus requirement to § 1512(c)(2) prosecutions and observing that the Second and Sixth Circuits have reached the same conclusion).

(4) United States v. Mintmire, 507 F.3d 1273, 1289 (11th Cir. 2007) (citing United States v. Thomas, 916 F.2d 647, 651 (11th Cir. 1990)) (determining whether “(1) there was an official proceeding taking place, in this case, a grand jury investigation; (2) [the defendant] engaged in conduct which constituted a substantial step toward the commission of the crime of obstruction of an official proceeding; (3) [the defendant] acted ‘corruptly,’ i.e., with an improper purpose and to engage in conduct knowingly and dishonestly with the specific intent to subvert, impede or obstruct the grand jury investigation; and (4) [t]he natural and probable effect of [the defendant’s] conduct would be the interference with the due administration of justice”).

(5) United States v. Geddie, Case No. 2:10-CR-186-MHT-WC, Doc. #860 at 5 (M.D. Ala. Apr. 4, 2011) (Capel, J.) (“While this court tends to agree with Geddie that a ‘nexus requirement’ should apply to § 1512(c)(2), that issue is not properly before this court, nor could it be at this time.”).

(6) United States v. Peterson, 627 F. Supp. 2d 1359, 1369 (M.D. Ga. 2008) (“A federal law enforcement agency investigation is not an official proceeding.”) (citing United States v. Ramos, 537 F.3d 439 (5th Cir. 2008); United States v. Dunn, 434 F. Supp. 2d 1203 (M.D. Ala. 2006) (Thompson, J.)).

(7) United States v. Dunn, 434 F. Supp. 2d 1203, 1206 (M.D. Ala. 2006) (Thompson, J.) (“Accordingly, the Supreme Court recently held in Arthur Andersen that an ‘official proceeding’ must at least be foreseeable at the time of the obstructive act before a person can be liable for obstruction of justice under § 1512.”).

**SUPPLEMENTAL JURY INSTRUCTION TWO:**

**Operation of PACs under Alabama Law: Generally**

A political action committee – or “PAC” – is a lawful method for making campaign contributions under Alabama and federal law. In Alabama, PACs have been an option for making campaign contributions since the 1980s.

Making a campaign contribution through a PAC is not evidence of guilt, illegality, dishonesty, or corruption.

GIVEN: \_\_\_\_\_

REFUSED: \_\_\_\_\_

**AUTHORITY:** Alabama Fair Campaign Practices Act, Ala. Code § 17-5-1, et seq.  
Code of Ethics for Public Officials, Ala. Code § 36-25-1, et seq.

**SUPPLEMENTAL JURY INSTRUCTION THREE:**

**Operation of PACs under Alabama Law: Use of Funds**

A PAC functions by collecting money from individuals and businesses. After collecting the money, the PAC's managers – usually a chairperson and a treasurer – make campaign contributions to candidates for public office.

When an individual or business contributes money to a PAC, the money becomes the PAC's property, and the original donor has no right to control the funds. The PAC's managers are free to determine when, to whom, and how to make campaign contributions.

GIVEN: \_\_\_\_\_

REFUSED: \_\_\_\_\_

**AUTHORITY:** Alabama Fair Campaign Practices Act, Ala. Code § 17-5-1, et seq.  
Code of Ethics for Public Officials, Ala. Code § 36-25-1, et seq.

**SUPPLEMENTAL JURY INSTRUCTION FOUR:**

**Operation of PACs under Alabama Law: Third-Party Input**

The PAC's managers may consider input from others – such as the original individuals and businesses – on when, to whom, and how campaign contributions should be made. Although they may consider that input, the PAC's managers have the final decision and ultimate control over the PAC's funds.

A decision by the PAC's managers to make a contribution – with or without input from the donor – is not evidence of guilt, illegality, dishonesty, or corruption.

GIVEN: \_\_\_\_\_

REFUSED: \_\_\_\_\_

**AUTHORITY:** Alabama Fair Campaign Practices Act, Ala. Code § 17-5-1, et seq.  
Code of Ethics for Public Officials, Ala. Code § 36-25-1, et seq.

**SUPPLEMENTAL JURY INSTRUCTION FIVE:**

**Operation of PACs under Alabama Law: PAC-to-PAC Transfers**

A PAC may contribute money to another PAC. During all times relevant to this case, Alabama and federal law permitted PACs in Alabama to transfer funds to another PAC. There is nothing illegal, dishonest, or corrupt about that practice.

GIVEN: \_\_\_\_\_

REFUSED: \_\_\_\_\_

**AUTHORITY:** Alabama Fair Campaign Practices Act, Ala. Code § 17-5-1, et seq.  
Code of Ethics for Public Officials, Ala. Code § 36-25-1, et seq.

**SUPPLEMENTAL JURY INSTRUCTION SIX:**

**Operation of PACs under Alabama Law: Good Faith Compliance**

The Secretary of State oversees the operation of PACs in Alabama. Throughout the year, a PAC's management is required to submit multiple reports to the Secretary of State. Those reports list (1) the individuals and businesses who have donated money to the PAC and (2) the candidates for public office that have received campaign contributions from the PAC. All of those reports are publicly filed and publicly available.

You may conclude that a defendant's compliance with these reporting requirements is evidence of good faith and, in fact, inconsistent with having a corrupt intent.

GIVEN: \_\_\_\_\_

REFUSED: \_\_\_\_\_

**AUTHORITY:** Alabama Fair Campaign Practices Act, Ala. Code § 17-5-1, et seq.  
Code of Ethics for Public Officials, Ala. Code § 36-25-1, et seq.

**SUPPLEMENTAL JURY INSTRUCTION SEVEN:**

**Operation of PACs under Alabama Law: “Attribution” is Legally Meaningless**

Because the money that a PAC receives becomes the property of the PAC, there is no legal requirement for a PAC’s management to assign or attribute funds spent as campaign contributions to anyone who made a donation to the PAC.

All campaign contributions to a political candidate from a PAC are made in the name of a PAC. A PAC maintains its own checking account with the PAC’s funds, which are kept separate from all other funds. All campaign contributions are drawn on the PAC’s checking account.

There is no requirement that a PAC’s management keep any sort of record “attributing” a particular campaign contribution to a particular donor. If a PAC’s management decides to keep a record like that, there is no legal requirement that the record must be kept accurately or that the record be filed with any public agency. PAC management may legally maintain such records for its own purposes.

GIVEN: \_\_\_\_\_

REFUSED: \_\_\_\_\_

**AUTHORITY:** Alabama Fair Campaign Practices Act, Ala. Code § 17-5-1, et seq.  
Code of Ethics for Public Officials, Ala. Code § 36-25-1, et seq.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served upon the following counsel of record through the Court's electronic filing system this 27th day of May, 2011:

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