

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CR. NO. 2:10cr186-MHT
	)	
MILTON E. McGREGOR,	)	
	)	
Defendant.	)	

**PROPOSED RESPONSE TO JURY QUESTION**

Milton E. McGregor respectfully requests that the Court respond as follows to the Jury's question of August 6. Counsel for Mr. McGregor has conferred with all other defense counsel, and the following defendants adopt and join in his requested response: Defendants Coker, Geddie, Means, Preuitt, Ross and Smith.

1. The Court should instruct the jury:

**The words "unlawful plan" used on page 14 of the court's instructions refer to the plan alleged by the government in paragraphs 28(A) and (B) of the indictment.**

2. The Government has proposed (Doc. 1635, paragraph spanning pp. 1-2) that the Court accompany this with another instruction emphasizing at extraordinary length what the Government does not have to prove. As Mr. McGregor has previously pointed out, too much emphasis on what the Government does not have to prove is unhelpful and unbalanced. The jury has not expressed any confusion about that, and it would be unfair,

prejudicial and confusing to re-emphasize those aspects of the charge in response to the jury's fair question. What the jury does need, judging by the question, is more direct clarity about what the Government does have to prove. Accordingly, Mr. McGregor objects to the response proposed by the Government.

3. Additionally, the Government has proposed (Doc. 1635 p. 2) an instruction specifically telling the jury that it can, in certain circumstances, read "and" as "or" in paragraph 28 of the Indictment. This is a reference to the paragraph on page 47 of the Court's instructions about "and" in allegations of the means by which an offense is committed. Mr. McGregor notes that the Government correctly does not seek to replace "and" with "or" in regard to "Alabama State legislators and legislative staff," in the Government's proposed response to the jury's question. (Doc. 1635 p. 2). However, giving the response requested by the Government could cause great confusion in this regard, and as stated above, such a response would be unhelpful, unfair and prejudicial.

Respectfully submitted,

s/ Benjamin J. Espy  
Benjamin J. Espy (ASB-0699-A64E)  
One of the Attorneys for Milton E. McGregor

OF COUNSEL:

Joe Espy, III (ASB-6591-S82J)  
William M. Espy (ASB-0707-A41E)  
MELTON, ESPY & WILLIAMS, P.C.  
P.O. Drawer 5130  
Montgomery, AL 36103  
Telephone: 334-263-6621  
Facsimile: 334-263-7252  
[jespy@mewlegal.com](mailto:jespy@mewlegal.com)  
[bespy@mewlegal.com](mailto:bespy@mewlegal.com)  
[wespy@mewlegal.com](mailto:wespy@mewlegal.com)

Fred D. Gray (ASB-1727-R63F)  
Walter E. McGowan (ASB-8611-N27W)  
GRAY, LANGFORD, SAPP  
McGOWAN, GRAY, GRAY  
& NATHANSON, P.C.  
P.O. Box 830239  
Tuskegee, AL 36083-0239  
Telephone: 334-727-4830  
Fax: 334-727-5877  
[fgray@glsmgn.com](mailto:fgray@glsmgn.com)  
[wem@glsmgn.com](mailto:wem@glsmgn.com)

Robert D. Segall (ASB-7354-E68R)  
David Martin (ASB-7387-A54J)  
Shannon Holliday (ASB-5440-Y77S)  
COPELAND, FRANCO, SCREWS & GILL, P.A.  
P.O. Box 347  
Montgomery, Alabama 36101-0347  
Telephone: 334-834-1180  
Fax: 334-834-3172  
[segall@copelandfranco.com](mailto:segall@copelandfranco.com)  
[martin@copelandfranco.com](mailto:martin@copelandfranco.com)  
[holliday@copelandfranco.com](mailto:holliday@copelandfranco.com)  
<mailto:copeland@copelandfranco.com>  
Sam Heldman (ASB 3794 N60S)  
THE GARDNER FIRM, P.C.  
2805 31st Street NW  
Washington, DC 20008  
Telephone: (202) 965-8884  
Fax: (202) 318-2445  
[sam@heldman.net](mailto:sam@heldman.net)

Ruth H. Whitney  
Attorney at Law  
One Financial Centre, Suite 305  
650 S. Shackelford Road  
Little Rock, AR 72212  
Telephone: (501) 954-7878  
[rwhitney@inveritasinfo.com](mailto:rwhitney@inveritasinfo.com)

CERTIFICATE OF SERVICE

I hereby certify that on August 7, 2011, I filed the foregoing with the Clerk of the Court using the CM/ECF filing system, and that a copy of same will be served on the below listed counsel of record via such system:

Justin V. Shur  
Eric Olshan  
Barak Cohen  
Brenda K. Morris  
Emily Rae Woods  
John L. Smith  
Edward T. Kang  
US Department of Justice  
1400 New York Avenue  
Washington, DC 20005  
[justin.shur@usdoj.gov](mailto:justin.shur@usdoj.gov)  
[eric.olshan@usdoj.gov](mailto:eric.olshan@usdoj.gov)  
[barak.cohen@usdoj.gov](mailto:barak.cohen@usdoj.gov)  
[brenda.morris@usdoj.gov](mailto:brenda.morris@usdoj.gov)  
[rae.woods@usdoj.gov](mailto:rae.woods@usdoj.gov)  
[edward.kang3@usdoj.gov](mailto:edward.kang3@usdoj.gov)

Louis V. Franklin, Sr.  
Stephen P. Feaga  
US Attorney's Office  
Post Office Box 197  
Montgomery, AL 36101-0197  
[steve.feaga@usdoj.gov](mailto:steve.feaga@usdoj.gov)  
[louis.franklin@udsoj.gov](mailto:louis.franklin@udsoj.gov)

David McKnight  
William J. Baxley  
Joel E. Dillard  
Stewart D. McKnight, III  
Baxley, Dillard, Dauphin, McKnight & James  
2008 Third Avenue South  
Birmingham, AL 35233  
[bbaxley@bddmc.com](mailto:bbaxley@bddmc.com)  
[jdillard@bddmc.com](mailto:jdillard@bddmc.com)  
[dmcknight@baxleydillard.com](mailto:dmcknight@baxleydillard.com)

Jackson R. Sharman, III  
Jeffrey P. Doss  
Samuel H. Franklin  
Lightfoot, Franklin & White

400 20th Street North  
Birmingham, AL 35203  
[jsharman@lightfootlaw.com](mailto:jsharman@lightfootlaw.com)  
[jdoss@lightfootlaw.com](mailto:jdoss@lightfootlaw.com)  
[sfranklin@lightfootlaw.com](mailto:sfranklin@lightfootlaw.com)

James P. Judkins  
Larry D. Simpson  
Judkins, Simpson, High & Schulte  
1102 North Gadsden Street  
Tallahassee, Florida 32303  
[jjudkins@readyfortrial.com](mailto:jjudkins@readyfortrial.com)  
[lsimpson@readyfortrial.com](mailto:lsimpson@readyfortrial.com)

William N. Clark  
William H. Mills  
Stephen W. Shaw  
Glory R. McLaughlin  
Redden Mills & Clark  
505 North 20th Street, Suite 940  
Birmingham, AL 35203  
[wnc@rmclaw.com](mailto:wnc@rmclaw.com)  
[whm@rmclaw.com](mailto:whm@rmclaw.com)  
[sws@rmclaw.com](mailto:sws@rmclaw.com)  
[grm@rmclaw.com](mailto:grm@rmclaw.com)

Ron W. Wise  
Attorney at Law  
200 Interstate Park Drive, Suite 105  
Montgomery, AL 36109  
[ronwwise@aol.com](mailto:ronwwise@aol.com)

H. Lewis Gillis  
Tyrone C. Means  
Thomas Means Gillis & Seay  
P.O. Drawer 5058  
Montgomery, AL 36103  
[hlgillis@tmgsllaw.com](mailto:hlgillis@tmgsllaw.com)  
[tcmeans@tmgsllaw.com](mailto:tcmeans@tmgsllaw.com)

Mark Englehart  
Englehart Law Offices  
9457 Alysbery Place  
Montgomery, AL 36103  
[jminglehart@gmail.com](mailto:jminglehart@gmail.com)

J. W. Parkman, III  
Richard M. Adams  
Joshua L. McKeown  
William C. White, II  
Parkman, Adams & White  
505 20th Street North, Suite 825  
Birmingham, AL 35203  
[parkman@parkmanlawfirm.com](mailto:parkman@parkmanlawfirm.com)  
[adams@parkmanlawfirm.com](mailto:adams@parkmanlawfirm.com)  
[jmckeown@parkmanlawfirm.com](mailto:jmckeown@parkmanlawfirm.com)  
[wwhite@parkmanlawfirm.com](mailto:wwhite@parkmanlawfirm.com)

Susan G. James  
Denise A. Simmons  
Attorney at Law  
600 South McDonough Street  
Montgomery, AL 36104  
[sgjamesandassoc@aol.com](mailto:sgjamesandassoc@aol.com)  
[dsimlaw@aol.com](mailto:dsimlaw@aol.com)

Thomas M. Goggans  
Attorney at Law  
2030 East Second Street  
Montgomery, AL 36106  
[tgoggans@tgoggans.com](mailto:tgoggans@tgoggans.com)

Jeffrey C. Duffey  
Law Office of Jeffrey C. Duffey  
600 South McDonough Street  
Montgomery, AL 36104  
[jcduffey@aol.com](mailto:jcduffey@aol.com)

s/ Benjamin J. Espy  
Of Counsel