

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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STEVE SCHONBERG)	
)	
7938 SE 12 th Circle)	
Ocala, FL 34480)	
Phone #: 352-789-0610)	
)	
Plaintiff,)	
v.)	Civil Action No. 10-2040 (RWR,JWR,CKK)
)	
FEDERAL ELECTION COMMISSION,)	
)	
999 E Street, NW)	
Washington, DC 20463)	
)	THREE-JUDGE COURT
)	
UNITED STATES OF AMERICA,)	
)	
950 Pennsylvania Ave., NW)	
Washington, DC 20530-0001)	
)	
Defendants.)	
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AMENDED COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTION

I. INTRODUCTION

1. This is an action facially challenging the constitutionality of the Federal Election Campaign Act of 1971 (“FECA”), 2 U.S.C. § 431 et seq and the Bipartisan Campaign Reform Act of 2002 (“BCRA”), Pub. L. No. 107-155, 116 Stat. 81 because they violate the Due Process Clause of the Fifth Amendment to the United States Constitution by failing to provide Equal Protection, *Bolling v. Sharpe* 347 U.S. 497 (1954)¹ The BCRA challenges include BCRA 116 Stat. 81,84 at (e) regarding “Federal Candidates,” BCRA 116 Stat. 81,88 “TITLE II,” and BCRA

¹ The right of Equal Protection in the Fifth Amendment was also discussed in Buckley v. Valeo, 424 U.S. 1, the seminal case on the Constitutionality of FECA.

116 Stat. 81,95 “TITLE III.”

2. This cause of action also facially challenges the constitutionality of 2 U.S.C. §432, §434, §439, §439a, and §441i and BCRA §313. These statutes allow members of Congress to appoint themselves and act as Agents and civil Officers under the authority of the United States in contravention of Article I, § 6, Clause 2 and Article II, § 2, Clause 2 of the U.S. Constitution.

3. This action also contends that BCRA and FECA are facially unconstitutional and in violation of Article I, Section 6, Clause 1 of the Constitution, the “Compensation Clause,” because they allow unconstitutional compensation to members of Congress.

4. This action also claims that 2 U.S.C. § 57b, “Representational allowance for Members of House of Representatives,” a/k/a “MRA,” is an unconstitutional violation of the Due Process Clause of the Fifth Amendment to the United States Constitution by failing to provide Equal Protection. The MRA law is also a violation of the Compensation Clause of the Constitution recited above.

5. Finally, this action asserts that earmarked legislation is an unconstitutional violation of the Compensation Clause and the Fifth Amendment of the United States Constitution.

II. JURISDICTION AND VENUE

6. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and BCRA § 403, 116 Stat. at 113-14, because Plaintiff elects “such provisions to apply to the action.” BCRA § 403(d)(2), 116 Stat. at 114.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) and BCRA § 403, 116 Stat. at 113-14, because Plaintiff elects “such provisions to apply to the action.” BCRA 403(d)(2), 116 Stat. at 114.

III. THREE-JUDGE PANEL

8. Pursuant to 28 U.S.C. § 2284 and BCRA § 403, 116 Stat. at 113-14, Plaintiff Requested and received a three-judge panel to hear and resolve this Amended Complaint. Pursuant to BCRA § 403(d)(2), 116 Stat. at 114, Plaintiff elects the provisions of BCRA § 403(a) to apply to this action. A copy of the original Complaint was delivered promptly to the Clerk of the House of Representatives and to the Secretary of the Senate so that these provisions shall apply.

IV. ELECTION FOR EXPEDITION

9. Pursuant to BCRA § 403(d)(2), 116 Stat. at 114, Plaintiff elects the provisions of BCRA § 403(a) to apply to this action and that disposition be expedited to “the greatest possible extent.”

V. ELECTION FOR APPEAL TO THE SUPREME COURT

10. Pursuant to BCRA § 403(d)(2), 116 Stat. at 114, Plaintiff elects the provisions of BCRA § 403(a) to apply to this action and that the action shall be reviewable only by appeal directly to the Supreme Court of the United States.

VI. THE PARTIES

11. Plaintiff is a citizen of the State of Florida and a member of the Democratic Party. Plaintiff’s Congressman is the longstanding, honorable, U.S. Representative from Florida, Congressional District 6.² Rep.FL6 defeated Plaintiff, a no party affiliation candidate, in the 2010 general election.³ Plaintiff is a no party affiliation candidate for the 2012 election for this same House seat.

12. In running for the 2012 House seat FL-06, Plaintiff has and will campaign on the

² The gentleman will hereafter be referred to as “Rep.FL6.”

³ Plaintiff is the same person as the one who filed *Schonberg v. FEC* at <http://fec.gov/law/litigation/schonberg.shtml> (Case No. 5:09-cv-534-Oc-32JRK.) That case was dismissed without prejudice in November, 2010.

principle that FECA and BCRA are unconstitutional. He also will campaign that the MRA law and earmarked legislation are unconstitutional. In the 2010 election Plaintiff received the most votes of any “no party affiliation” candidate running for the U.S. House of Representatives from the State of Florida.

13. Defendant United States of America is responsible for enforcing 2 U.S.C. § 57b and providing MRA funds to members of Congress. Defendant United States is also mandated to enforce its laws prohibiting bribery, fraud, and misuse of government funds by members of Congress.

14. Defendant Federal Election Commission (“FEC”) is the government agency with enforcement authority over FECA and BCRA and was created by Congress with the passage of FECA.

VII. FACTS

A. ELECTION FACTS IN GENERAL

15. Unbridled corruption in Congress plagues the People of the United States, 73% of who now disapprove of the job performance of our legislative branch of government.

16. FECA, BCRA, the MRA law, and earmarked legislation do not prevent gifting, bribery, and influence peddling in Congress. FECA, BCRA, the MRA law, and earmarked legislation permit and encourage corruption in Congress.

17. The MRA law and earmarked legislation enable incumbent members of Congress to gain an unfair election advantage over their challengers. They also provide compensation to members of Congress over and above their salaries.

18. Plaintiff is a civil Officer and Agent of “Schonberg for Congress,” his principal campaign committee. As a civil Officer and Agent, Plaintiff is acting under the Authority of the

United States.

19. Plaintiff is also a “public official” acting under the authority of the Defendant FEC as defined in 18 U.S.C. § 201.

20. Rep.FL6 is a member of Congress. He is a civil Officer and Agent of “Friends of Rep.FL6,” his principal campaign committee. As a civil Officer and Agent, Rep.FL6 is acting under the Authority of the United States.

21. Rep.FL6 is also a “public official” acting under the authority of the Defendant FEC as defined in 18 U.S.C. § 201.

22. Rep.FL6 receives MRA funding, and he creates earmarked legislation.

23. Plaintiff receives no election assistance from the federal government.

24. Plaintiff took no campaign contributions in the 2010 election cycle because they are unconstitutional bribes, and he will take none in 2012 election cycle.

25. Rep.FL6 took in \$624,000 in emoluments for the 2010 election cycle through October 13, 2010. Rep.FL6 will probably have his best emolument-raising years ever in the 2012 election cycle.⁴

26. Aside from the qualifying fee which Plaintiff paid through his own loan, Plaintiff spent approximately \$1400 in the 2010 election and received just over 71,000 votes. Plaintiff’s cost per vote was about \$.02.

27. Rep.FL6 spent \$729,000 in the 2010 election (through October 13, 2010) and received almost 179,000 votes. Rep.FL6 spent more than \$4.00 per vote.

28. If plaintiff were able to spend \$4 per vote, he would have had a much better chance

⁴ At the time of this filing, Rep.FL6 had not become a candidate for the 2012 election. This Complaint assumes that Rep.FL6 will be a candidate. If Rep.FL6 decides not to run for re-election in 2012, Plaintiff will seek to amend this Complaint.

of winning the 2010 election. If Plaintiff could spend \$4 per vote in the 2012 election, he will have a much better chance of winning that election.

29. Under BCRA, FECA, and the MRA, buying votes by bombarding the electorate with ads is permitted, widespread, and disproportionate.

30. The MRA law and earmarked legislation provide unconstitutional election advantages and unconstitutional compensation to incumbents.

31. Except for the wealthy challenger and those in league with corporate lobbyists, an incumbent member of Congress generally has a huge election advantage over the challenger.

32. Rep.FL6 has had and will have a huge election advantage over Plaintiff because of the facts and claims cited in this Amended Complaint.

33. All corporate donations to the campaign committees of members of Congress are emoluments or bribes, given in an attempt to influence or induce.

34. Earmarked legislation provides emoluments and/or bribes to the electorate from a Congressman to his constituents.

35. Some members of the U.S. House of Representatives, who both regulate corporations on their committee assignments and accept emoluments from the same corporations, are corrupt politicians.

36. Some members of the U.S House of Representatives use MRA funds and earmarked legislation for personal gain.

37. Because challengers to incumbent members of Congress do not sit on committees regulating corporations who bribe committee members with campaign contributions, most incumbent legislators have a decided monetary campaign advantage over their challengers.

38. Because challengers to incumbent members of Congress do not have funds from

MRA to use for campaign purposes, incumbent legislators who misuse MRA funds have a decided monetary campaign advantage over their challengers.

39. Because Plaintiff has never provided earmarked legislation for the benefit of the State of Florida and its citizens, Plaintiff has been and will be at a tremendous campaign disadvantage compared to Rep.FL6.

40. Purposely or inadvertently giving an incumbent legislator an election advantage over a challenger is not reasonably related to any proper governmental objective.

41. Plaintiff was harmed and damaged because his opponent in the 2010 election received a monetary advantage by virtue of his acceptance of money from corporations which he regulates.

42. Plaintiff was harmed and damaged because his opponent in the 2010 election took unfair advantage of the MRA law and earmarked legislation he provided to the citizens of Florida.

43. Plaintiff will be harmed and damaged because his opponent in the 2012 election receives a monetary advantage by virtue of his acceptance of money from corporations which he regulates.

44. Plaintiff will be harmed and damaged because his opponent in the 2012 election receives an advantage by misuse of MRA funds, and because he provides earmarked legislation to the citizens of Florida.

45. Rep.FL6 is the ranking Republican member of the Subcommittee on Communications, Technology and the Internet; he is also a member of the Subcommittee on Commerce, Trade and Consumer Protection, and the Subcommittee on Energy and Environment. Rep.FL6 is also a member of the House Energy and Commerce Committee. He is destined to be

the chairman of at least one House committee in the 112th Congress.

B. MISUSE OF THE TAXPAYER FUNDED CONGRESSIONAL WEBSITE

46. As an incumbent, Rep.FL6 received a tax-payer funded website which contained political advertising.⁵ Plaintiff had no means to compete with this advertising, giving his incumbent opponent an unfair advantage in the 2010 election. Rep.FL6 will have the same advantage in the 2012 election unless this Court rules otherwise.

47. An incumbent's government-paid, expensive, deeply layered, and sophisticated website to assist in re-election was not considered by FECA or by *Buckley v. Valeo*, 424 U.S. 1 which pre-dated the Internet.

48. Because Congress generally acts only in its own best interests, BCRA did not address this website inequality either, even though BCRA did create new Internet responsibilities for the Defendant FEC.

49. Rep.FL6' "http:// Rep.FL6.house.gov/" website gives him free Google, Yahoo and other online search-engine privileges which are not provided to the Plaintiff.⁶

50. The Rep.FL6 "house.gov" website contains a huge number of political advertisements and many self-promotions. Here are several examples taken from the website on December 15, 2010⁷:

(a) With the August district work period beginning, I want to take a few moments of your time to update you on what I have been doing. For the past 19 months of the Obama administration, I have fought runaway spending, soaring deficits, job-

⁵ See [http:// Rep.FL6.house.gov/default.aspx](http://Rep.FL6.house.gov/default.aspx)

⁶ E.g., when Plaintiff "Googled": "Congressman 'Rep.FL6'" on November 15, 2010, his ".gov" website was the first site displayed.

⁷ The Rep.FL6 ".gov" website also had a multitude of video advertisements which Plaintiff is unable to incorporate into this pleading.

killing legislation and government expansion. When Congress returns in September, I will continue this fight.

(b) Rep.FL6 is highly regarded for his extensive record on fiscal responsibility. In 2010, the U.S. Chamber of Commerce again honored Rep.FL6 for his consistent support of economic growth, reduced federal spending, and tax relief. In 2008, he was one of only 39 House members to receive an "A" rating from the National Taxpayers Union. In addition, he routinely honored (sic) by other fiscal watchdog groups such as Citizens Against Government Waste and Americans for Tax Reform.

(c) "Long before his career in Congress, Rep.FL6 had a keen interest in serving others. Congressman Rep.FL6 is a shining example of a Floridian. He has been president of the Kiwanis Club, which focuses on community service. Rep.FL6 was also on the Board of Directors for Boys & Girls Club, as well as for Munroe Regional Hospital."

(d) Sharing ideas with politicians can be like shouting inside a sound-proof booth. But Rep.FL6, who represents part of Westside Jacksonville, has come up with a booklet with the ideas of his constituents that he calls "Your Good Ideas."

(e) Rep.FL6 gets a gold star for seeking input from his constituents and doing more than just paying lip service to listening.

(f) The Council for Citizens Against Government Waste (CCAGW) named Rep.FL6 a "Taxpayer Hero" for his record on fiscal responsibility. "Rep.FL6 can always be counted upon to put the interests of taxpayers ahead of politics."

(g) When he was Chairman of the Commerce, Trade & Consumer Protection Subcommittee, Rep.FL6 held over 30 hearings on such issues as energy prices in the wake of Hurricane Katrina, Spyware, identity theft and data security, steroids in sports, counterfeit products, automobile safety, consumer privacy, automobile repair, and the Committee on Foreign Investment in the United States (Dubai Port deal).

(h) He is extremely accessible to constituents. Returning to his home in Ocala often, he has held over 550 town meetings across north central Florida.

(i) Rep.FL6 was presented the Guardian of Small Business Award by the National Federation of Independent Business (NFIB). The statement from the NFIB recognized Rep.FL6' work for small business, "In the 111th Congress, Rep.FL6 proved that he is a champion of small business."

(j) The U.S. Senate recently passed a transportation bill that included \$2 billion in 'earmarks' -- local projects inserted by members. Rep.FL6 voted to eliminate waste in 42 of 50 votes studies. That's 84 percent, one of the best records in Congress. This nation needs more people like Rep.FL6 in office.

(k) "The Chamber is proud to present Rep.FL6 with the Spirit of Enterprise Award on behalf of businesses large and small. In the face of unprecedented economic challenges and in the midst of an election cycle, this Congress made some historic and courageous decisions that impacted the lives of every American. The Spirit of Enterprise Award identified those lawmakers that truly stepped up to the plate and demonstrated real leadership in making this country a place where business can continue to grow and create jobs. "

(l) "Thank you for your strong support for the Jeffersonian ideal of a smaller government that permits the free enterprise system to flourish. Through your votes on issues such as reducing taxes, workplace regulations and other economic matters, you have demonstrated your commitment to our nation's prosperity and economic well-being."

(m) Three Cheers – Rep.FL6 stands out -- "Members of Congress were poor stewards of the public's money last year, says Citizens Against Government Waste. One exception was Rep.FL6.

(n) "Having served in the U.S. Air Force, I realize that those in our military do not enjoy the full freedoms of civilians in this nation, and Congress must exercise careful deliberation in repealing any law that could undermine the effectiveness of our men and women in uniform."

(o) "I thank the Republican Leadership and the members of the Republican Steering Committee for considering me to chair the House Energy & Commerce Committee. I believe that my background in creating jobs by building my own business, along with my conservative record and experience in chairing a subcommittee, would have made me an effective leader."

(p) Rep.FL6, a graduate of George Washington University in Washington, D.C., will be inducted into the George Washington University Engineering Hall of Fame. Rep.FL6 earned a degree in electrical engineering while attending the university on a U.S. Air Force ROTC scholarship. He went on to serve four years in the Air Force where he was assigned to a highly classified program during the Vietnam War working on satellite reconnaissance.

(q) On leaving the Air Force, Rep.FL6 worked in the private sector before starting his successful business as the owner of a chain of motels and restaurants in north central Florida. Due to his business background and strong record of community service, Rep.FL6 was urged to run for Congress.

(p) Rep.FL6, a senior member of the House Energy & Commerce Committee, will be the keynote speaker at the Emerging Issues Policy Forum being held on Amelia Island. Rep.FL6 will provide his perspective on the Forum's topic – "Powering the Future 2010" during the morning session.

(r) "Throughout the nation, jobs are hard to come by – and it's even harder to find a job if you are a veteran just exiting the service or a Guard or Reservist returning from deployment," said Rep.FL6, Vice Republican Leader on the House Veterans Affairs Committee. "Although the VA has created an online job portal to help veterans look for employment, as with many government run programs, the VA built one without thinking about the customer, our veterans.

(s) "I am a proud co-chair and co-founder of the Congressional Cystic Fibrosis Caucus, along with my colleague Rep. Ed. Markey (D-MA), where we work closely with the Cystic Fibrosis Foundation," stated Rep.FL6.

(t) Rep.FL6 has been recognized by U.S. English, Inc. for his dedication to preserving the unifying role of the English language in the United States. Rep.FL6 was one of a select number of House members honored with an "A in English" award based on his votes and co-sponsorship of official English legislation in the 111th Congress.

51. Plaintiff estimates the campaign value of these incumbent Internet privileges to be tens of thousands of dollars, including the website, the free search engine advertising, the use of the House Floor, the use of copies of Franked mail, and website maintenance.

52. The ".gov" websites paid for by the taxpayer provide an incalculable election advantage for the incumbents when considered as a whole.

53. Rep.FL6' government paid website is a form of compensation that is in addition to his salary.

C. INEQUALITY AND MISUSE OF THE FRANKING PRIVILEGE

54. There are many rules regarding the use of official stationary of members of Congress. FECA, BRCA, and the MRA law do not address any of those rules. 39 U.S.C. § 3210

is the statute governing Franked mail.

55. With certain restrictions, Rep.FL6 has and can use franked mail paid for by the taxpayers to gain an unfair election advantage by communicating with his constituents.

56. Plaintiff has no franking privilege and cannot communicate with the voters at taxpayers' expense.

57. Because the House Ethics Manual permits it, Rep.FL6 may use the taxpayers' MRA money to purchase mailing lists.⁸ The U.S. government does not provide Plaintiff with any mailing list at any cost. BCRA, FECA and the MRA law permit Rep.FL6 to use this mailing list for his political campaign.

58. Rep.FL6 uses franked mail which includes such statements as "Ranking Republican Member," "Deputy Ranking Republican Member," and "Congressional Horse Caucus, Co-Chairman."

59. The following redacted document is from Rep.FL6's official ".gov" website:

⁸ House Ethics Manual, 2008, pg 128.

~~XXXXXXXXXX~~
6TH DISTRICT, FLORIDA

WASHINGTON:
2370 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-0906
(202) 225-5744
FAX: (202) 225-3973
www.house.gov/stearns

AIR FORCE CAUCUS, CO-CHAIRMAN
CHRONIC OBSTRUCTIVE PULMONARY
DISEASE CAUCUS, CO-CHAIRMAN
CYSTIC FIBROSIS CAUCUS, CO-CHAIRMAN
CONGRESSIONAL HORSE
CAUCUS, CO-CHAIRMAN



Congress of the United States
House of Representatives
Washington, DC 20515-0906

COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEES:
COMMUNICATIONS, TECHNOLOGY, AND
THE INTERNET
RANKING REPUBLICAN MEMBER
ENERGY AND ENVIRONMENT
COMMERCE, TRADE, AND
CONSUMER PROTECTION

COMMITTEE ON VETERANS' AFFAIRS
DEPUTY RANKING REPUBLICAN MEMBER
SUBCOMMITTEES:
HEALTH
OVERSIGHT AND INVESTIGATIONS

September 3, 2009

President Barack Obama
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear President Obama,

I would like to share my concern and the concerns of some of my constituents about the unprecedented number of policy czars employed by the White House. By my count, there were at least 32 active czars. This large number of current czars is troublesome, especially since the czars have been granted a lot of authority in numerous policy areas. Yet, each czar is not accountable to congressional oversight but tasked with leading major policy efforts for the administration.

I would appreciate full and complete answers to the following questions:

1. How many policy czars have you appointed?
2. How does the number of czars in your administration compare with previous administrations?
3. Where do funds come from to pay for them?
4. What oversight measures exist to ensure transparency and accountability?

This information would go a long way to make certain that your appointment of these czars is not just an attempt to avoid congressional examination of your policies. Thank you for your attention to this matter. I request that you respond in writing by October 3, 2009. I look forward to hearing from you soon.

With kind regards, I am

Sincerely,

XX
XXXXXXXXXXXX
United States Representative

OCALA
115 S.E. 25TH AVENUE
OCALA, FL 34471
(352) 351-8777

GAINESVILLE
5700 S.W. 34TH STREET, #A25
GAINESVILLE, FL 32608
(352) 337-0003

ORANGE PARK
1726 KINGSLEY AVENUE, #8
ORANGE PARK, FL 32073
(904) 266-3203

PRINTED ON RECYCLED PAPER

60. The above letter is a political advertisement paid for with MRA funds and placed on the “.gov” website of Rep.FL6 with the taxpayers’ money.⁹ There is at least one other letter on his official stationary which Rep.FL6 posted on the website.¹⁰

61. The use of sealed, official, U.S. government stationary for campaign advertising is permitted by FECA and BCRA. It is paid for by MRA. Plaintiff is not provided sealed, official, U.S. government stationary for his campaigns.

D. ACTIVITIES OF “FRIENDS OF REP.FL6”

62. In the third quarter of 2010, Rep.FL6, the Agent and civil Officer of his campaign committee, paid the National Republican Congressional Committee an emolument of \$550,000. This was an inducement directed toward the expected Speaker of the House, Representative John Boehner, to help Rep.FL6 secure a committee chairmanship.

63. A committee chairmanship will vastly increase Rep.FL6’ wealth and power, much more so than a subcommittee chairmanship. As a committee chairman, Rep.FL6 will also increase his incumbency advantage with a larger amount and number of emoluments given to him from the corporations he will regulate.

64. The use of bribes to obtain the chairmanship of a House committee is permitted and encouraged by members of Congress and allowed by FECA and BCRA.

65. “Friends of Rep.FL6” is a multi-million dollar fund which Rep.FL6 oversees in his duty as Agent and civil Officer. Even after the huge payoff to Mr. Boehner, Rep.FL6 still had more than \$2.4 million dollars in his FECA-created nest egg.

⁹ The link to the letter to the President is:
<http://www.Rep.FL6.house.gov/UploadedFiles/CzarLObama.pdf>.

¹⁰ See: http://Rep.FL6.house.gov/UploadedFiles/Letter_to_Chairman_Angelides_-_Paulson_GS.pdf

66. BCRA and FECA allow members of Congress to amass huge amounts of funds in their campaign committees for as long as the committees exist. This permissible accumulation of campaign committee wealth allowed by BCRA and FECA creates an increased incentive for corporations to engage in influence peddling, bribery and corruption.

67. Members of Congress are more easily corrupted because their campaign committees can and do accumulate wealth after each members’ successful re-election. Such wealth accumulation is permitted and encouraged by FECA and BCRA.

68. If all campaign committees and political action committees regulated by the Defendant FEC were abolished, influence peddling of, bribery of, and corruption of members of Congress would markedly diminish.

69. “Friends of Rep.FL6” has had more than \$2 million dollars in cash for at least four years. Rep.FL6 keeps most of the cash in seven different banks and credit unions in FL-06, allowing him to receive the electoral support of the bank and credit union employees. No comparable electoral support is available to the Plaintiff.

70. The following table shows Rep.FL6’ 2009 income from eight financial institutions where Rep.FL6 invested the cash of “Friends of Rep.FL6”:

FINANCIAL INSTITUTION	AMOUNT RECEIVED in 2009
Florida Credit Union	\$ 6445.43
M & S Bank	\$ 8490.78
First Avenue National Bank	\$ 5223.65
Regions Bank	\$18433.66
Campus USA Credit Union	\$ 7983.52
Ocala Community Credit Union	\$16673.76
Gateway Bank of Central Florida	\$ 7221.03
T. Rowe Price	\$ 4698.42
“FRIENDS OF REP.FL6” TOTAL:	\$75,170.25

71. Rep.FL6 can use far in excess of \$100,000 in investment profits of “Friends of Rep.FL6” from the 2008 and 2010 election cycles in his campaign against the Plaintiff in the 2012 election cycle.

72. Having \$2.5 million dollars cash in “Friends of Rep.FL6” to deposit in the various financial institutions is a form of compensation and a special entitlement not provided for in the Constitution.

73. Rep.FL6 should receive the support of hundreds of the customers and employees of the above seven local banks and credit unions who justifiably believe that those banks and credit unions will not fail because of him.

74. These financial institutions will not fail because Rep.FL6, under the authority of the United States, has invested huge sums from “Friends of Rep.FL6” in them. No comparable electoral support is available to the Plaintiff.

75. Rep.FL6 received \$6000 in emoluments for “Friends of Rep.FL6” from the American Bankers Association PAC in the 2010 election cycle. Rep.FL6 is a member of two House subcommittees that regulate banking.

76. “Friends of Rep.FL6” received approximately \$9000 from T. Rowe Price in the 2010 election cycle as interest payments.

77. The Financial Disclosure Statement Rep.FL6 filed with the U.S. House of Representatives in May of 2010¹¹ indicates he personally owns hundreds of thousands of dollars in T. Rowe Price “Summit Cash Reserves.”

78. The Financial Disclosure Statement also showed Rep.FL6 had thousands of dollars

¹¹ Available online at http://pfds.opensecrets.org/N00002782_2009.pdf

of personal funds deposited with Regions Bank. Regions Bank had the largest component of “Friends of Rep.FL6” cash for the 2010 election cycle, shown in the above table. So Rep.FL6 is both a personal customer of Regions Bank and a campaign customer under the authority of the United States.

79. The more money an entity invests in a bank or credit union, the better will be the rate of return and the services provided. By investing both personal and campaign money in the same financial institution for several years, Rep.FL6 receives compensation from the financial institution not available to the Plaintiff.

80. Plaintiff has been and will be severely harmed in his campaigns for Congress because his opponent has an unconstitutional and unfair monetary advantage. The more money you have to spend on a campaign for Congress, the better will be your chances of winning.

81. Rep.FL6 has recently voted for a tax cut “for the wealthy.” The wealthy includes Rep.FL6, most members of Congress, and “Friends of Rep.FL6,” a multimillion dollar fund which paid about \$2800 in IRS form 941 payroll taxes in 2010.

E. THE HARRIS CORPORATION CONFLICT OF INTEREST

82. Harris Corporation is a telecommunications business headquartered in Melbourne, Florida, not far from House District FL-06. Harris Corporation is a major contractor with the U.S. Department of Defense.

83. Rep.FL6 has close ties with Harris Corporation and the Department of Defense. Because of his contact with Harris Corporation as a civil Officer and Agent of “Friends of Rep.FL6,” Rep.FL6 has inside knowledge of the needs of Harris Corporation.

84. Harris Corporation is regulated by the Subcommittee on Communications, Technology and the Internet. Rep.FL6 is the ranking Republican member of this subcommittee.

Rep.FL6 has inside knowledge of the needs Harris Corporation because he regulates it.

85. Rep.FL6 may be awarded the Chairmanship of the Subcommittee on Communications, Technology and the Internet in 2011.

86. Rep.FL6' Financial Disclosure Statements for the past several years have shown an ownership interest in Harris Corporation and receipt of dividends from Harris Corporation.

87. As a civil Officer under the authority of the United States, Rep.FL6' has received more than \$25,000 in emoluments from Harris Corporation. In the 2010 election cycle, Rep.FL6 was given a \$2000 emolument for "Friends of Rep.FL6" from Harris Corporation.

88. The conflict of interest Rep.FL6 has with Harris Corporation is enabled by FECA and BCRA even though Rep.FL6 owns its stock and regulates it through his subcommittee.

F. FOR PROFIT HEALTH INSURANCE

89. The United States is the only industrialized nation in the world that allows "for-profit" health insurance companies, and the only one that does not have universal health care.

90. The United States is the only country in the world that allows giant pharmaceutical and health insurance corporations to bribe its legislative branch of government.

91. In the 2010 election cycle, Rep.FL6 received emoluments from the following health insurance and drug companies:

Aetna Inc. Amgen Inc. Bristol-Myers Squibb Co Corning Incorporated Eli Lilly and Company Genentech Inc. Glaxosmithkline LLC Johnson & Johnson	McKesson Corporation Medco Health Solutions Merck & Co.,Inc. Novartis Corporation Novo Nordisk Pfizer Inc. BLUE CROSS BLUE SHIELD OF FL
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92. While being bribed by the health care industry to keep health care costs high for the

average American, including the Plaintiff, members of Congress receive health insurance benefits for themselves and their families that are subsidized 75% by the taxpayer.

93. Plaintiff's wife is a citizen of the State of Florida who has a pre-existing medical condition. She has no major medical health insurance. Plaintiff is unwilling to pay the exorbitant and unaffordable prices for "major medical" offered to his wife by Blue Cross Blue Shield of Florida, the source of Florida high risk pool coverage.

94. Blue Cross Blue Shield of Florida has the only major medical coverage available to Plaintiff's wife. The "Florida Health Political Action Committee (The PAC of Blue Cross Blue Shield of FL.,Inc.)" has given Rep.FL6 \$11,500 in emoluments over the past several years.

95. If Plaintiff bought Blue Cross Blue Shield major medical coverage for his wife in 2010, part of his premium would have been used to provide emoluments to his opponent in the 2010 election. If Plaintiff buys the Blue Cross Blue shield coverage now, part of his premium will be used to provide Rep.FL6 emoluments in the 2012 election.

96. Knowing that part of the premium for his wife's health insurance would be given to his political opponent is a disincentive to Plaintiff to obtain the coverage. FECA and BCRA do not promote the General Welfare by forcing Plaintiff to pay a tithe to Rep.FL6 in order to obtain health insurance for his wife.

97. If Plaintiff were allowed to buy health insurance coverage for his wife using the plans available to an incumbent member of the U.S. House, the premium would be approximately one-eighth the cost of the premium offered by Blue Cross Blue Shield of Florida.

98. Incumbents campaigning for the 2010 election had no worries about the availability of affordable health insurance for their families. When Plaintiff campaigned for that election, not a day went by where his wife's lack of affordable health insurance coverage was not a dreadful

consideration.

99. Plaintiff was irreparably harmed in the 2010 election campaign, and he will be irreparably harmed in the 2012 campaign as well, because of the absence of affordable health insurance for his wife.

100. The fear of bankruptcy due to the cost of an unexpected medical emergency confronting his wife was and is ubiquitous in Plaintiff's mind. The fear was there long before Plaintiff became a candidate.

101. The possibility of a medical bankruptcy was and is a terrible distraction to Plaintiff's campaign activities. It interfered with his ability to concentrate on his campaign and stole much of the necessary energy required in the run for Congress. Plaintiff admits that his campaign was and will be less effective because of the lack of affordable major medical insurance for his wife.

102. Many members of the U.S. House of Representatives were enormously bribed by the drug and for-profit health industries in the 2010 election cycle in the run-up to passage of the Patient Protection and Affordable Care Act.

103. All members of Congress who took the bribes from the health insurance industry in 2009 and 2010 stood to benefit by their corrupt protection of these companies from competition. If there were legitimate competition to these companies in the form of a public option, several of the companies would fail and the bribes would dry up.

104. If there were no more bribes of Congress from the health insurance industry, the likelihood is increased that affordable health insurance will be available to the families of all challengers in the 2012 election for the U.S. House.

F. MISUSE OF FEDERAL EMPLOYEES AND DISTRICT OFFICES

105. FECA, BCRA and the MRA law allow members of Congress to have unfettered use of “volunteers” who both campaign for them and are their federal employees as members of their staff.

106. These employees’ salaries are paid for by the U.S. taxpayers, including Plaintiff. These “volunteers” campaign because their federal jobs depend on the re-election success of their “boss,” the incumbent member of Congress who hires them.

107. Federal employees on the staffs of members of Congress can contribute hundreds of thousands of dollars worth of coerced “volunteerism” to get their boss re-elected. The penalty for lack of volunteering by these federal employees is the loss of their jobs, should their boss not get re-elected.

108. Rep.FL6 hires and fires his staff employees. An employee who is not a “team player” can get fired. Team players volunteer in Rep.FL6’ re-election campaigns because to do otherwise would jeopardize the federal jobs of the entire team.

109. FECA, BCRA and the MRA law have no mechanism to regulate or place a monetary value on the activities of these “volunteers” because none is contained in any of the statutes.

110. Challengers to incumbent members of Congress are not provided federal employees to volunteer in the challengers’ campaigns.

111. Plaintiff has been and will be severely disadvantaged by Rep.FL6’ unfettered use of federal employees in elections in 2010 and 2012.

112. No records of the coerced volunteerism by Rep.FL6 employees are public records. There may be no records kept at all.

113. The following is a partial list of members hired by Rep.FL6 with their estimated annual salaries paid for by the taxpayer:

<u>Jean M. Clough</u>	District Staff Assistant	\$43,000
<u>Paul J. Flusche</u>	Press Secretary	\$77,000
<u>John Austin Konkus</u>	District Manager	\$80,000
<u>Robert Matthew McKinney (Matt)</u>	Staff Assistant	\$26,000
<u>Sherrie Porter</u>	Staff Assistant	\$46,000
<u>Jack Farnsworth Seum</u>	Chief of Staff	\$136,000

114. All of these individuals were “volunteers” in the 2010 re-election campaign of Rep.FL6. Mr. Konkus, definitely, and probably Ms. Porter, both acted as “surrogates” for Rep.FL6 at numerous campaign events in the 2010 election cycle.

115. Mr. McKinney is both a federal employee and an employee of “Friends of Rep.FL6.” Mr. McKinney receives two salaries. Rep.FL6 is responsible for payment of this federal employee’s payroll taxes in his duty as a civil Officer and Agent of the “Friends of Rep.FL6.”

116. Rather than Rep.FL6 showing up at many of the 2010 campaign events, the federally employed surrogate showed up so that Rep.FL6 was never questioned by the electorate on any disputed matter.

117. Rep.FL6 is likely to use his federally employed staff as surrogates in the 2012 election cycle, just as he has done in the past.

118. Mr. Flusche, the above-referenced Press Secretary, is paid with Plaintiff’s tax dollars as the “Press Secretary” for Rep.FL6. Mr. Flusche has prepared dozens of press releases

for Rep.FL6 in violation of the House Ethics Manual.¹² FECA,BCRA, and the MRA law permit this abuse. Plaintiff is not provided a press secretary paid for by the government.

119. Plaintiff and all other taxpayers pay for Rep.FL6 to maintain district offices, including one in Ocala, Florida. The money comes from Rep.FL6's MRA allotment from the Treasury of the United States.

120. Rep.FL6 does not have a campaign office despite the \$2.5 million dollars in its campaign coffers. Rep.FL6 uses his MRA funded official U.S. government offices for campaigning.

121. "Friends of Rep.FL6" pays a portion of the rent for one of Rep.FL6's official district offices. The U.S. mail contact on Rep.FL6's campaign website is, "Friends of Rep.FL6, P. O. Box 308, Silver Springs, FL 34489."

122. By not maintaining a campaign office, Rep.FL6 can more easily disguise the amount of volunteer time his federal employees spend campaigning for him. The "Friends of Rep.FL6" is unjustly enriched by the use of an MRA funded office for campaign purposes.

123. On October 12, 2010 Plaintiff hand-delivered a letter to Rep.FL6 at his Ocala, FL official district office. The office is located at 115 S.E. 25th Ave., Ocala, FL.

124. After being told that Rep.FL6 was not in the office at that time, Plaintiff asked the federal employee receptionist for documentation that the letter had been delivered.

125. As the receptionist was writing out a receipt, federal employee and Rep.FL6's campaign surrogate Konkus popped out into the government reception area and took a picture of Plaintiff. Mr. Konkus commented, "That will be proof of your delivery."¹³

¹² House Ethic Manual, 2008, pg 124.

¹³ Plaintiff did not object to the photograph and smiled for Mr. Konkus' camera shot.

126. Rep.FL6 allows Mr. Konkus to switch from government employee to campaign surrogate any time Mr. Konkus wants to make the switch. Rep.FL6 allows his MRA official government office in Ocala, FL to switch from a government office to a campaign office anytime Mr. Konkus wants to make the switch.

127. No records are kept showing when the MRA funded offices of Rep.FL6 are being used for campaign activities. Rep.FL6 has shifted a substantial portion of the cost of maintaining a campaign office from “Friends of Rep.FL6” to the taxpayer.

128. Plaintiff is not provided a district office paid for by the government to undertake campaign activities. FECA, BCRA and the MRA law allow campaigning in the U.S. government offices of members of Congress.

129. Rep.FL6, as the agent of “Friends of Rep.FL6,” determines which federal employees will be campaigning for him, what their responsibilities will be, and what activities they shall engage in.

130. Rep.FL6, as the U.S. Representative from FL-06, determines which federal employees will be campaigning for him, what their responsibilities will be, and what activities they shall engage in.

131.Rep.FL6 has a dual role in supervising his federal employees. He supervises their conduct as members of his staff, and he supervises them as campaign volunteers.

132. It is in the best financial interest of Rep.FL6 to shift the burden of paying his campaigners onto the backs of the taxpayers. Rep.FL6 has done that. By shifting the cost of campaigning from “Friends of Rep.FL6” to the taxpayer, Rep.FL6 allows his campaign committee to accumulate more wealth, year after year.

G. MISUSE OF THE FLOOR OF THE HOUSE OF REPRESENTATIVES

133. The following image was taken by Plaintiff from the “home” page of Rep.FL6.gov on December 15, 2010 and the Congressman’s name was redacted. The dark YouTube video box is titled, “Rep.FL6-TARP-Fed-12-7-20...”



134. The subtitle of the video says, “House Floor.” When the video is played it broadcasts Rep.FL6 speaking on the hallowed floor of House of Representatives.

135. The speech given in the YouTube video by Rep.FL6 is a political advertisement on his government sponsored and government paid for website. Here is the beginning of the video:



136. Rep.FL6 uses his access to the floor of the House of Representatives for self-promotion and the creation of broadcast political advertising that is paid for by the MRA and the taxpayers, including Plaintiff.¹⁴

137. BCRA and FECA permit Rep.FL6 to use the floor of the House of Representatives for political advertising.

138. BCRA and FECA permit Rep.FL6 to use government provided video coverage on the floor of the House of Representatives for Rep.FL6’s campaign activities.

139. Plaintiff is not even allowed on the floor of the House of Representatives. The U.S. government is not permitted to video a speech of the Plaintiff on the floor of the House of Representatives even when Congress is not in session.

H. PROFLIGATE CAMPAIGN SPENDING

140. By enacting 2 U.S.C. §439a., BCRA §313(a), 116 Stat. at 95 Congress allows its members to use their campaign committee funds to treat their office staff employees, themselves, and the political supporters who bribe them to lavish expenditures, e.g. luxurious suites and skyboxes at sporting events, golf tournaments at expensive resorts, coffee klatches at exclusive restaurants.

141. The following disbursement was reported on “Friends of Rep.FL6” FEC Form 3 filed on 3/26/2010:

Verizon Center 1300 I St NW, Suite 400 West Washington, DC 20005		12/09/2009
	Suite @ Verizon Ctr	4500.00

¹⁴ The Tarp video of Rep.FL6 on the House floor link is: <http://Rep.FL6.house.gov/Multimedia/?VideoID=hHCHPRmiXfM>. There were several other House floor videos on the “.gov” website on the day these clips were obtained.

142. In all probability this suite was for an audience with Rep.FL6 at a sporting event. Guests probably included influential lobbyists seeking and willing to pay Rep.FL6 a handsome reward for a moment of his time.

143. On Friday, October 29, 2010, four days prior to the election, Rep.FL6 saw no need to campaign; instead he had a \$2000 per hour emolument-raiser at the Capitol Hill Club Grill in Washington, D.C., where he and the lobbyists could live like royalty.

144. The “Friends of Rep.FL6” needed replenishment, so Rep.FL6 had a “Coffee Talk.” Here is a copy of the invitation with the Representative’s name redacted:

Coffee Talk
with
CONGRESSMAN [REDACTED]

*House Committee on Energy and Commerce
Ranking Member, Subcommittee on Telecommunications and Internet
Subcommittee on Commerce, Trade and Consumer Protection
Subcommittee on Energy and the Environment
House Committee on Veterans' Affairs
Deputy Ranking Republican Member
Subcommittee on Health
Subcommittee on Oversight and Investigations*

Friday, October 29, 2010
30 minute one on ones starting at 9:30am
Capitol Hill Club Grill
300 First Street S.E.

Suggested contributions: \$1000 PAC \$500 Individual

RSVP to Meredith at (703) 684-8330 or Meredith@GoeasAssociates.com

Checks should be made payable to **Friends of [REDACTED]**
c/o Carole Goeas & Associates, LLC, 1707 Prince St, #5, Alexandria, VA 22314

Paid for and authorized by Friends of [REDACTED]

Federal law does not permit corporate contributions. Contributions to Friends of [REDACTED] are not tax deductible as charitable contributions for Federal income tax purposes. Federal Law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year. Not printed or used at government expense. **FEC ID: C00229077**

H. THE VETERANS AFFAIRS CONFLICT OF INTEREST

145. Plaintiff receives medical and prescription drug benefits from the Veterans Affairs outpatient clinic in Ocala, Florida. In 2010, the copayment costs to Plaintiff for his medications rose 12.5%.

146. Rep.FL6 is a member of the Subcommittee on Health to the House Committee on Veterans' Affairs. This subcommittee has oversight jurisdiction on the costs of Plaintiff's medications.

147. In the 2010 election cycle Rep.FL6 received several thousand dollars from drug companies who sell drugs to the VA. So on the one hand, Rep.FL6 was padding "Friends of Rep.FL6" with drug money.

148. On the other hand Rep.FL6' VA oversight helped the profit margin of the same drug companies at the expense of low priority veterans, e.g. the Plaintiff. This conflict of interest is enabled by FECA and BCRA.

149. The increased cost of his VA medication had a negligible financial impact on Plaintiff's 2010 election campaign. The emotional toil caused by Rep.FL6's VA conflict of interest was much more detrimental to Plaintiff's campaign.

I. COMMINGLING CAMPAIGN, OFFICIAL, AND PERSONAL EXPENSES

150. By enacting 2 U.S.C. §439a.(a)(2), BRCA §313(a)(2), 116 Stat. at 95, Congress allowed its members to use campaign contributions, "for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office."

151. Thus, while acting as a civil Officer under the authority of the United States and agent of a campaign committee, the civil Officer and member of Congress may commingle the funds of the campaign committee with the funds used for her/his Congressional staff

expenses.

152. An incumbent is permitted to lease or purchase an automobile with campaign funds for personal and office use under FECA and BCRA.

J. BCRA CLAIMS WHICH ARE SOLELY FROM BCRA

153. BCRA, as interpreted by *Citizens United v. FEC*, 130 S.Ct. 876 (2010), allows unlimited funding of electioneering broadcasts by corporations and the U.S. Chamber of Commerce. Title II of the BCRA regulates electioneering communications, and “Independent and Coordinated Expenditures.”

154. Corrupt incumbent members of Congress who sit on or chair committees which regulate corporations are much more likely to gain the benefit of electioneering broadcasts and Independent and Coordinated Expenditures than would a challenger with no history of corruption.

155. For example, Rep.FL6 receives huge emoluments from telecommunications corporations while regulating them in his subcommittee. These telecommunications corporations are much more likely to provide electioneering broadcasts and Independent and Coordinated Expenditures favorable to Rep.FL6 and against the Plaintiff in the 2012 election cycle.

156. The U.S. Chamber of Commerce spent millions of dollars in political advertising for the 2010 elections. Rep.FL6 was endorsed by the Chamber in the 2010 elections.¹⁵

157. Even if Rep.FL6 decided not to run in the 2012, Plaintiff’s opponent would be endorsed by the U.S. Chamber of Commerce and would probably be provided whatever advertising assistance was necessary from the Chamber to defeat Plaintiff.

¹⁵ At: <http://www.repfl6.net/endorsements2.cfm?id=325>

158. Plaintiff has publically spoken and will continue to denounce the U.S. Chamber of Commerce and Corporate America for interfering in federal election campaigns. Plaintiff will be subjected to the following unconstitutional electioneering and Independent and Coordinated Expenditures authorized by BCRA:

- A. Issue advocacy (including ads that mention Plaintiff);
- B. Grassroots and direct lobbying on pending legislative matters;
- C. Grassroots lobbying or other public communications concerning Republican ballot initiatives;

159. Plaintiff's opponent in the 2012 election is likely to unfairly benefit from electioneering broadcasts and Independent and Coordinated Expenditures permitted by *Citizens United* and BCRA, Title II.

160. The Supreme Court never considered Fifth Amendment due process rights in its *Citizens United* opinion. Fifth Amendment due process rights of an individual candidate were not part of *McConnell v. FEC*, 540 U.S. 93 (2003).

161. Fair elections, guaranteed by the Fifth Amendment to the Constitution, are more important than "free speech" in elections, guaranteed by the First Amendment.

162. Plaintiff's free speech rights are impaired because his denunciations of the *Citizens United* opinion, Title II of the BCRA, and the U.S. Chamber of Commerce political campaigning will likely result in unfavorable electioneering broadcasts and Independent and Coordinated Expenditures in the 2012 election.

K. THE MRA AND HOUSE RULES

163. The MRA provides Rep.FL6 with IRS tax-free money for the following purposes:¹⁶

¹⁶ This list was compiled from excerpts taken from the House of Representatives, "Members Handbook."

- (a) To hire and pay his employees.
- (b) To enjoy food and beverages at official and representational meetings.
- (c) For photographic expenses, including official photographs for distribution to constituents.
- (d) For the purchase of electronic services, such as access to the internet.
- (e) For office supplies, such as the camera used to photograph Plaintiff in Rep.FL6' Ocala office.
- (f) For telecommunications lines (voice and data) in the residence of Rep.FL6.
- (g) For all expenses for Town Hall Meetings, including advertising, signs, banners, and flyers.
- (h) For Cable TV in his district offices.
- (i) For district offices which are used for campaign activities.
- (j) For advertisements for official and representational events in his district, e.g. ribbon cutting ceremonies.
- (k) For internet, radio and TV advertisements.
- (l) For audio and video recording services, including the use of a government studio.
- (m) For advertising booths.
- (n) To distribute informational and instructional publications created by private entities.
- (o) For electronic communications, "Internet, fax machines, etc."
- (p) For Franked mail
- (q) For printing and publication expenses of items described in this paragraph.

- (r) For Franked mail that says, “Ranking Republican Member” and “Deputy Ranking Republican Member.”
- (s) For Franked mail that says, “CONGRESSIONAL HORSE CAUCUS, co-chairman.”¹⁷
- (t) For mass communications to his constituents.
- (u) For Web Sites, as described in prior paragraphs of this Amended Complaint.
- (v) For short-term vehicle rentals with unlimited free mileage and insurance.¹⁸
- (w) For a government travel card .
- (x) To allow Rep.FL6 to join the taxpayer funded Republican Study Committee at <http://rsc.tomprice.house.gov/AboutRSC/memberlist.htm>.

164. Although Rep.FL6 violated several of the rules contained in the House of Representatives Members Handbook and the House Ethics Manual, federal laws that might prohibit these transgressions are rarely enforced.

165. The House of Representatives decides when one of its members should be investigated by the U.S. Department of Justice for a violation of the law, e.g. misuse of public funds.

L. EARMARKED LEGISLATION AND NEPOTISM BY PROXY

¹⁷ The Congressional Horse Caucus is an unconstitutional promotional organization authorized by the House Members Handbook under the title “Congressional Member Organizations.” It is referred to in the Handbook as a “CMO.” Rep.FL6 is also a member of the Tea Party Caucus. The “Tea Party Caucus” is another example of this unconstitutional campaign activity by members of Congress. Here is a link to an egregious political advertisement which is paid for by the taxpayer: <http://rsc.tomprice.house.gov/news/DocumentSingle.aspx?DocumentID=180402>. Rep.FL6 is a member of the “RSC.”: <http://rsc.tomprice.house.gov/aboutrsc/memberlist.htm>.

¹⁸ There are extensive rules and laws on Congressional air travel, but Plaintiff lacks the resources to address the constitutional violations that may be present.

166. Rep.FL6 has a long history of obtaining millions of dollars in earmarked legislation for the benefit of the State of Florida, mainly in Florida District 6 and neighboring districts.

A few examples follow.



“Rep.FL6 secured \$500,000 to further Traumatic Brain Injury (sic) research by Invivo Corp.”¹⁹

167. Shortly after a Press Release,²⁰ this earmark resulted in favorable press coverage for Rep.FL6 in the Gainesville, Florida newspaper in District 6 during the run-up to the 2010 election and won votes for Rep.FL6.²¹

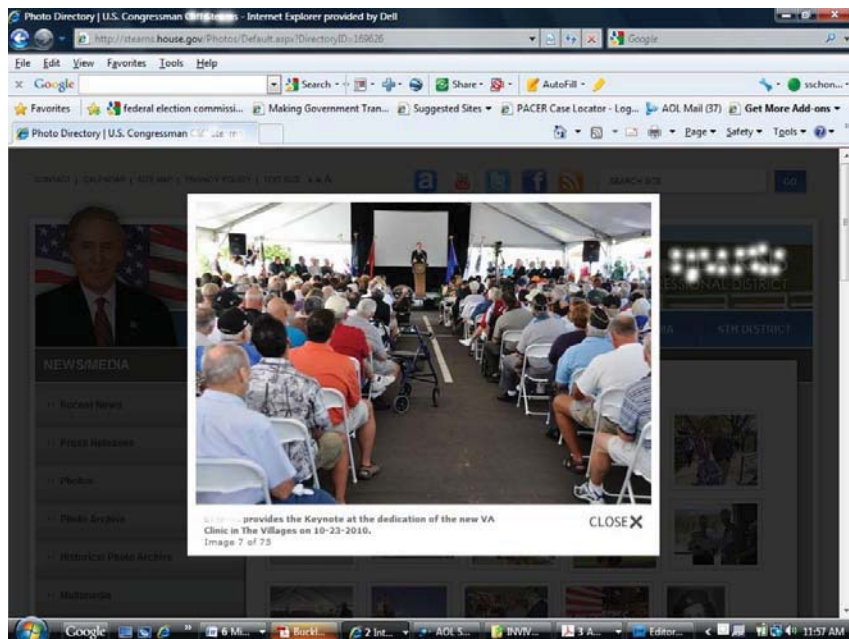
168. Rep.FL6 worked diligently to bring in a huge Veteran Affairs earmark in The Villages, FL, winning him a vast number of votes and extensive press coverage. The following advertisement was copied from the “.gov” website. The title reads, “Rep.FL6 provides the

¹⁹ From Photo Album 9 on the Rep.FL6 “.gov” website, showing Rep.FL6 holding a poster of a \$500,000 “check” to Invivo Corporation from the “United States Treasury” and signed by Rep.FL6.

²⁰ Also posted on the taxpayer funded website at:
<http://rep.fl6.house.gov/News/DocumentSingle.aspx?DocumentID=212571> (substitute Congressman’s last name for “rep.fl6”)

²¹ See: <http://www.gainesville.com/article/20101021/ARTICLES/101029846>

Keynote at the dedication of the new VA Clinic in the Villages on 10-23-2010.”²²



169. The keynote address was given just ten days prior to the November 2, 2010 general election and probably provided hundreds to thousands of votes for Rep.FL6 in the election.

170. Earmarked federal spending brings money, jobs, and business to Florida; and it brings votes for Rep.FL6.

171. One job that earmarked legislation has helped provide in Florida is that for “Joan,” the wife of Rep.FL6. Joan has been employed at the College of Central Florida (CCF) in Ocala since the year 2000. CCF²³ is funded primarily by the State of Florida.

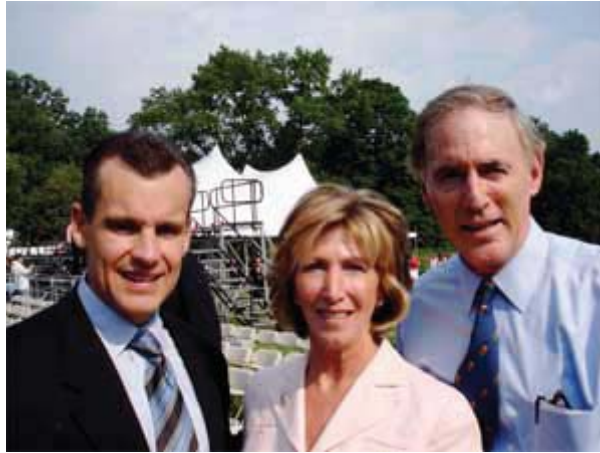
172. Because of earmarked legislation and support brought to CCF by Rep.FL6, CCF has a compound on its campus named, “The Rep.FL6 Learning Resource Center.” The resource

²² The press release from “.gov” website is at: <http://rep.fl6.house.gov/News/DocumentSingle.aspx?DocumentID=212872> (substitute Congressman’s last name for “rep.fl6”)

²³ CCF was previously named Central Florida Community College (CFCC).

center contains a Plaque dedicated to Rep.FL6 for his distinguished service.

173. Joan not only works for CCF, but she also campaigns for her husband. Here is an advertisement from the “.gov” website paid for by the taxpayer:



It has the subtitle: “Joan and Rep.FL6 join Gators Men's Basketball coach Billy Donovan at White House ceremony honoring collegiate champions.”²⁴

174. On 24, 2008, Rep.FL6 provided an earmarked check to CCF as shown in this

²⁴ From Album 10 at: http://_____.house.gov/photoarchivealbums/Album10.htm

political advertisement on the “.gov” website:²⁵



175. According to opensecrets.org, Rep.FL6 obtained earmarks for CCF of \$97,000 in 2008, \$238,000 in 2009 and \$300,000 in 2010.²⁶

176. The Open Secrets website does not have earmark information prior to 2008 for Rep.FL6, but this information is available to Defendant United States of America.

²⁵ http://____.house.gov/News/DocumentSingle.aspx?DocumentID=155979

²⁶ See: <http://www.opensecrets.org/politicians/earmarks.php?cid=N00002782&cycle=2010>,
<http://www.opensecrets.org/politicians/earmarks.php?fy=FY09&cid=N00002782&cycle=2010>,
<http://www.opensecrets.org/politicians/earmarks.php?fy=FY08&cid=N00002782&cycle=2008>.

177. CCF announced on Election Day that Joan has now been relocated to Washington, D.C., which coincidentally is where her husband works:

_____ NAMED TO COUNCIL FOR RESOURCE DEVELOPMENT BOARD

Nov. 2, 2010

The College of Central Florida has announced the appointment of Joan _____ to the 2011 Council for Resource Development Board of Directors in Washington, D.C. She will serve as chair of the By-Laws Committee.

_____ is vice president of Institutional Advancement at CF, where she has served since January 2000. In her role, she oversees the CF Foundation, which serves to equip the college with resources needed to reach its goals.



“Ms. _____ will be a real asset in this role,” said Dr. Charles Dassance, CF president. “Her service on this board is in alignment with the Foundation’s strategic goals, which include national recognition as a model of financial and operational effectiveness and efficiency.”

178. The House Ethics Manual, page 272 et seq, prohibits Rep.FL6 from hiring Joan as one of his employees. Through the use of earmarked legislation and other influence unknown to Plaintiff, Rep.FL6 enhanced his wife’s job opportunities with CCF.

179. The following appears to be the “quid pro quo” equation of Nepotism by Proxy:

- (a) Rep.FL6 obtains earmarked legislation to benefit CCF.
- (b) CCF hires and promotes Rep.FL6’ wife Joan to a lucrative, desirable Washington, D.C. job.
- (c) Both CCF and Rep.FL6 are compensated by the legislative earmarks.

180. Rep.FL6 has used his election to Congress to secure a salary and health insurance benefits for his wife that are paid for by the State of Florida.

181. Even if Plaintiff were elected to Congress, he could not legally secure a job and

health insurance for his wife paid for by the State of Florida.

182. Rep.FL6 also reaps huge electoral benefits because of the vote support given by CCF students, employees, benefactors, faculty, administration, as well as that from the press.

183. These unconstitutional electoral benefits to the incumbent are not available to the Plaintiff, his challenger.

184. FECA, BCRA, and MRA allow Nepotism by Proxy and legislative earmarks. There may be rules in the U.S. House of Representatives that prohibit this misconduct. But those rules are not enforced.

185. There may be laws of the United States that prohibit Nepotism by Proxy and legislative earmarks. But those laws are not enforced.

M. EARMARKED LEGISLATION AND POLITICAL ADVERTISING

186. Over the years, Rep.FL6 has provided millions of dollars in earmarked legislation for the University of Florida in Gainesville, Florida which is located in District 6. Here is a photo of Rep.FL6 with a poster of a check for \$4.7 million dollars.



187. The subtitle of this taxpayer funded advertisement and pork-barrel spending reads, “Rep.FL6 secured \$4.7 million for three programs at the University of Florida. Here he presents

one check to University President Bernie Machen.”²⁷

188. This taxpayer advertisement shows Rep.FL6 with legendary University of Florida former head football coach, Urban Meyer:



The subtitle reads, “Rep.FL6 presents flag that was flown over the Capitol to Coach Urban Meyer.”²⁸

189. Rep.FL6 is reported to be an avid sports fan of the University of Florida. Not only does Rep.FL6 reap huge election support by virtue of his earmarked legislation and misuse of government funds for political advertising, but he has also been frequently spotted sitting in the VIP section of University of Florida home sporting event games.²⁹ This seating arrangement, in itself, provides votes to Rep.FL6 that are unavailable to Plaintiff.

N. FACTUAL ENDING

190. Because Rep.FL6 has had such a long and distinguished career in public service, his conduct and misuse of government resources during the Congressional election campaign of

²⁷Photo is part of album 10 on the “.gov” website.

²⁸ Photo is part of album 9 on the “.gov” website.

²⁹ Plaintiff does not know whether or not Rep.FL6 actually paid for the tickets to these games. Perhaps his attendance at the ball games was official business with UF President Machen to discuss the need for future earmarked legislation.

2010 was probably the norm for a member of Congress rather than the exception.³⁰

VIII. CLAIMS THAT FECA AND BCRA ARE UNCONSTITUTIONAL

191. Plaintiff incorporates paragraphs 1-190 of this Complaint.

A. FIFTH AMENDMENT DUE PROCESS CLAIMS

192. FECA and BCRA are unconstitutional because they deny the challenger in a campaign for the U.S. House of Representative equal protection:

- (a). By providing the incumbent with a monetary advantage.
- (b). By supplying the incumbent with a taxpayer funded political website.
- (c). By giving the incumbent taxpayer funded internet search engine privileges.
- (d). By permitting an incumbent to put large amounts of cash in multiple financial institutions among the electorate in the incumbent's district.
- (e). By allowing bribes to members of Congress that prevent the challenger from having equal access to health insurance.
- (f). By authorizing incumbents to use federal employees to campaign for them.
- (g). By forcing a challenger to pay a tithe to the incumbent in order to get health insurance.
- (h). By creating an electioneering system that favors members of Congress who accept bribes from corporations that are regulated by these members of Congress.
- (i). By allowing the incumbent to raise campaign funds from the corporations

³⁰ E.g. the member's official website cannot contain "personal ...information" according to the Members Handbook, but probably every member's ".gov" website contains a personal biography.

she/he regulates in committee assignments.

- (j). By permitting the incumbent to use interest income for campaigning.
- (k). By sanctioning the incumbent's use of official, sealed, U.S. government stationary for campaigning.
- (l). By giving the incumbent a press secretary paid for by the government to draft and release campaign press releases.
- (m). By enabling the incumbent to use federal employees to act as campaign surrogates.
- (n). By sanctioning the incumbent's use of official district business offices for campaigning.
- (o). By allowing the incumbent's use of government video from the floor of the House of Representatives in campaign advertising.
- (p). By permitting an incumbent to use government created mailing lists for their political campaigns.
- (q). By providing the incumbent a government employed photographer for campaign photographs.
- (r). By empowering the incumbent to use government funded, unsolicited mass communications containing the Franking privilege.
- (s). By failing to prevent the incumbent's use of sealed, official, U.S. government stationary in campaign ads.
- (t). By enabling the incumbent unlimited, government funded Town Hall meetings.
- (u). By permitting the lease or purchase of an automobile for the incumbent's

personal and office use.

- (v). By providing voice and data telecommunication access in the personal residence of the incumbent.
- (w). By allowing Cable TV in the incumbent's district offices for campaign use.
- (x). By allotting radio, TV, and Internet advertising for Town Hall and other official and representational activities by the incumbent.
- (y). By providing a government studio for recording audio and video advertisements by the incumbent.
- (z). By permitting the purchase of government funded advertising booths by the incumbent.
- (aa). By sanctioning official stationery that says, "Ranking Republican Member," "Deputy Ranking Republican Member," and "CONGRESSIONAL HORSE CAUCUS co-chairman."
- (bb). By supplying taxpayer funded short-term vehicle rentals with unlimited mileage for use by the incumbent.
- (cc). By giving the incumbent a Government Travel Card.
- (dd). By allowing the creation of Congressional Member Organizations (CMO's) that are purely political advertising for incumbent campaigns paid for by the taxpayers.
- (ee). By permitting all other applicable claims and allegations in this Amended Complaint not included in the above list.
- (ff). By sanctioning electioneering and Independent and Coordinated Expenses against Plaintiff by corporations and politically active organizations like the

U.S. Chamber of Commerce.

(gg). By many other activities to which Plaintiff is not privy.

193. Plaintiff is harmed and damaged by these constitutional violations.

B. APPOINTMENTS CLAUSE CLAIM

194. Article II, § 2, Clause 2 of the U.S. Constitution provides that, "... the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

195. Because Congress does not have appointment power, it cannot appoint its members to act as Agents and civil Officers of their respective campaign committees. The FECA at 2 U.S.C. §432, §434, §439, §439a, and §441i and BCRA §313 are therefore unconstitutional.

196. Through FECA and BCRA, Congress combined the power to create offices with the power to appoint themselves as the office holders, which is a recipe for corruption forbidden by the Appointments Clause.

197. Plaintiff is harmed and damaged by this constitutional violation.

C. COMPENSATION CLAUSE CLAIMS

198. Article I, Section 6, Clause 1 of the Constitution states, "The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States."³¹ FECA and BRCA violate the compensation clause at the very least by:

(a). Permitting members of Congress to act as Agents and civil Officers of multimillion dollar campaign committees.

(b). Allowing the campaign committees of members of Congress to accumulate

³¹ Hereinafter this clause is referred to as the "compensation clause."

wealth over decades and through multiple election cycles.

- (c). Enabling members of Congress to mingle personal bank accounts in the same financial institutions where they deposit campaign cash.
- (d). Sanctioning members of Congress in their receipt of bribes and inside knowledge from the corporations they regulate.
- (e). Providing members of Congress the use campaign funds for personal extravagances, such as sporting event suites, coffee klatches and golf tournaments.
- (f). Enabling members of Congress to use campaign funds for any purpose listed in 2 U.S.C. §439a., BCRA §§301,313.
- (g). Failing to prevent the members of Congress from investing personal funds in the corporations they both regulate and receive emoluments from.
- (h). Allowing members of Congress to be given an elaborate, taxpayer funded, political website.
- (i). Giving members of Congress a press secretary paid for by the government to draft and release campaign press releases enhancing the members' wealth and power.
- (j). Permitting members of Congress to use federal employees to act as their campaign surrogates which enhances their wealth and power.
- (k). Allowing members of Congress to use campaign funds to purchase or lease an automobile for personal use and pay for the expenses associated with its use.
- (l). By all other applicable claims and allegations in this Amended Complaint not included in the above list.

199. Plaintiff is harmed and damaged by these constitutional violations.

D. EMOLUMENTS CLAUSE CLAIMS

200. Article I, Section 6, Clause 2, the “Emoluments Clause”³² of the Constitution states:

“No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.”

FECA and BRCA appoint members of Congress to act as the agents of their campaign committees. This agency relationship is the same as a civil Officer under the Authority of the United States. This agency relationship is the same as a “Person holding any Office under the United States.”

201. By allowing members of Congress to use campaign funds, “for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office,” FECA and BRCA unconstitutionally commingled the office of an agent of a campaign committee with the office of a member of Congress.

202. The following are some examples showing that Rep.FL6 acts as a civil Officer or a Person holding any Office under the United States:

- (a). Rep.FL6 paid the National Republican Campaign Committee \$550,000 in an attempt to induce the upcoming Speaker of the House to appoint Rep.FL6 to a committee chairmanship.
- (b). Rep.FL6 manages a campaign fund worth \$2.5 million dollars.

³² There is a clause forbidding the President from receiving emoluments in Article II, Seciton 1, Clause 7 of the Constitution. Plaintiffs’ Complaint only deals with the Article I Emoluments clause. The two portions of the clause are also known as the, “Ineligibility” and “Incompatibility” clauses.

- (c). “Friends of Rep.FL6” received in excess of \$100,000 in interest payments from financial institutions regulated by Rep.FL6.
- (d). Rep.FL6 received \$25,000 from a corporation in which he both owns stock in and regulates.
- (e). Rep.FL6 received hundreds of thousands of dollars from dozens of corporations that he regulates.
- (f). Rep.FL6 supervises and is in charge of federal employees who campaign for him.
- (g). Rep.FL6 manages a fund that is separate from Congress, has a huge amount of interest income, and is liable to the IRS for taxes.
- (h). Rep.FL6 can or does use money from “Friends of Rep.FL6” to pay his Congressional office expenses.
- (i). Rep.FL6 uses official, sealed, U.S. government stationary for campaigning.
- (j). Rep.FL6 uses a press secretary paid for by the government to draft and release campaign press releases.
- (k). Rep.FL6 uses federal employees to act as his campaign surrogates.
- (l). Rep.FL6 uses a U.S. government district office for campaigning.
- (m). Rep.FL6 uses video of his speeches on the floor of the House of Representatives for campaigning.
- (n). Rep.FL6 is provided with U.S. government mailing lists which he may use for campaigning.
- (o). Rep.FL6 supervises government employees who photograph him for campaign advertising.

(p). Rep.FL6 makes unsolicited mass communications using the Franking privilege.

(q). By all other applicable claims and allegations in this Amended Complaint not included in the above list.

203. By allowing themselves to function as agents under the Authority of the United States, members of Congress unconstitutionally created a civil Office for themselves through the enactment of FECA and BCRA.

204. By allowing themselves to function as agents under the Authority of the United States, members of Congress unconstitutionally made themselves persons “holding any Office under the United States” through the enactment of FECA and BCRA.

205. Through FECA and BCRA, Congress combined the power to create offices with the power to appoint themselves as the office holders, which is a recipe for corruption forbidden by the Emoluments Clause.

206. Plaintiff is harmed and damaged by these constitutional violations.

IX. CLAIMS THAT THE MRA LAW IS UNCONSTITUTIONAL

A. FIFTH AMENDMENT EQUAL PROTECTION CLAIMS

207. Plaintiff incorporates paragraphs 1- 206 above.

208. The MRA Law provides members of Congress, including Rep.FL6, with about \$1,000,000 each as an MRA allotment each year.

209. Members of Congress use this allotment as set forth in paragraph 190 above.

210. The MRA Law enables the Fifth Amendment violations set for in paragraph 190 above, and it is therefore also unconstitutional.

211. Plaintiff is harmed and damaged by these constitutional violations.

B. COMPENSATION CLAUSE CLAIMS

212. Plaintiff incorporates paragraphs 1-211 above.

213. The MRA Law enables the constitutional violations set forth in paragraph 196 above. The MRA Law itself is therefore unconstitutional.

214. The MRA Law is unconstitutional by virtue of any other applicable claims and allegations in this Amended Complaint not included in the list in paragraph 196.

215. Plaintiff is harmed and damaged by these constitutional violations.

XI. CLAIMS THAT EARMARKED LEGISLATION IS UNCONSTITUTIONAL

216. Plaintiff incorporates paragraphs 1-215 above.

A. FIFTH AMENDMENT CLAIMS

217. Earmarked legislation gives election votes to Rep.FL6 that he would not get, but for the earmarked legislation.

B. COMPENSATION CLAUSE CLAIMS

218. Earmarked legislation provides unconstitutional compensation and an election advantage to Rep.FL6 in at least the following ways:

- (a). By providing a job for and election support from his wife through Nepotism by Proxy.
- (b). By emoluments such as VIP seating at sporting events.
- (c). By the creation of monuments in Rep.FL6's name, such as the CCF Learning Center.
- (d). By all other methods referenced in this Amended Complaint but not included in this list.
- (e). In many ways to which Plaintiff is not privy.

219. Plaintiff is harmed and damaged by these constitutional violations.

XI. CONCLUSIONS

220. Public-only financing of federal election campaigns will help reduce bribery and corruption in Congress. Abolishing the FEC is the first step toward public-only campaign financing. Abolishing the FEC will allow the Department of Justice to prosecute all bribes given to members of Congress.

221. Elimination of the MRA will force Congress to reassess how its members are provided a staff and funds to run each member's office. A prospective ruling on the constitutionality of future MRA laws will stifle much of the Congressional corruption that plagues the People of the United States.

222. Ending government fraud, waste and abuse by the Court's ruling that earmarked legislation is unconstitutional would be "a dream come true" for most of the People of the United States.

XI. CLAIMS FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment:

A. Declaring that, as to Congressional elections, FECA and BRCA violate the Fifth Amendment, the Appointments Clause, the Compensation Clause and the Emoluments Clause of the United States Constitution.

B. Enjoining the Defendant Federal Election Commission from enforcing FECA and BRCA for Congressional Elections.

C. Immediately freezing all the assets of all campaign committees under the authority of Defendant Federal Election Commission and ordering the funds returned to the donors.

D. Immediately freezing all the assets of all campaign committees under the authority of Defendant Federal Election Commission that cannot be returned to the donors so that proper disposition of the funds can be ordered by the Court.

E. Declaring the MRA Law unconstitutional in violation of the Fifth Amendment and the Compensation Clause of the United States Constitution.

F. Prospectively ruling that any future “MRA Law” that fails to provide transparency and specific United States Code criminal penalties for violations is unconstitutional.

G. Prospectively ruling that any earmarked legislation for Florida that is obtained by Rep.FL6 in the 112th Congress and signed into law by the President be declared unconstitutional, but only as to the earmarked portion of such bills.

H. Granting costs and attorney fees as may be permitted should Plaintiff find counsel to represent him.

I. Whatever other and further relief the Court deems just.

Respectfully Submitted,

/s/Steve Schonberg

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CERTIFICATE OF SERVICE

I hereby certify that on day this Amended Complaint was electronically filed by the Court Clerk, using the Court's CM/ECF system, it will send a notice of electronic filing to the Defendant FEC. I FURTHER CERTIFY that on this same day I mailed a copy of the foregoing pleading by Certified U.S. Priority Mail to:

Eric Holder
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

Ronald C. Machen Jr.
United States Attorney
For the District of Columbia
555 4th Street, NW
Washington, DC 20530

I FURTHER CERTIFY THAT AN ORIGINAL SUMMONS AND A DATE STAMPED COPY OF THE ORIGINAL COMPLAINT WERE SERVED ON MR. HOLDER AND MR. MACHEN VIA CERTIFIED MAIL ON DECEMBER 20, 2010.

/s/Steve Schonberg

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