

Perkins Coie

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May 13, 2003

Mr. Lawrence Norton
Federal Election Commission
Office of General Counsel
6th Floor
999 E Street, NW
Washington, DC 20463

MUR # 5365

Re: Club For Growth

2003 MAY 13 P 4:32
RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Dear Mr. Norton:

The ink was barely dry on the Federal Court decision upholding the ban on so-called "issue ads," a ban that was enacted into law and signed by President Bush, when the Club for Growth decided to ignore the law. The Club for Growth, which publicly states that its purpose is to elect candidates that share its extreme tax-cutting and anti-government philosophy, and to defeat those who do not, has begun an ad campaign in clear contravention of the court's decision. The Club is now running ads in the states of targeted Senators.

We are filing this complaint, seeking an immediate investigation and enforcement. These Club For Growth ads contravene the plain terms of the statutory test upheld by the three-judge district court in *McConnell v. Federal Election Commission*. The test validated by the Court prohibits corporations, or organizations funded by corporations, from financing advertising that refers to a specific candidate and "promotes or supports a candidate...or attacks or opposes" that candidate. 2 UCS (f)(3)(A)(ii). There can be no doubt that the ad in question does precisely that which is prohibited. It is directed against Senator Daschle, attacking him for opposing the President's "tax cut plan."

[04005-0001/DA031330.020]

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The ad reads as follows:

Audio	On-Screen Display
<i>Male Announcer:</i> "President Kennedy cut income taxes and the economy soared.	President Kennedy Cut Income Taxes and the Economy Soared
President Reagan cut taxes more and created 15 million new jobs.	President Reagan Cut Taxes More and Created 15 Million New Jobs
President Bush knows tax cuts create jobs, and that helps balance the budget.	President Bush Knows Tax Cuts Create Jobs, And That Helps Balance the Budget
But Senator Tom Daschle opposes the President.	But Senator Tom Daschle Opposes the President
South Dakota has lost thousands of jobs and President Bush has a plan to help.	South Dakota Unemployed Up 1,206 in 2 years. Tell Tom Daschle...
Tell Tom Daschle to support the Kennedy/Reagan/Bush tax policy that will bring jobs back to South Dakota."	Bring Jobs Back to South Dakota. PAID FOR BY THE CLUB FOR GROWTH www.clubforgrowth.org

No one would quarrel with the Club if it paid for these ads with hard money raised and disclosed like any other political committee. It is the use of soft money from mega-millionaires and corporate benefactors that the court found properly prohibited by the new law. It is now the Federal Election Commission's job to bring a quick halt to these activities. Failure to act will only undermine the law's credibility and lead to rampant violations; leaving those who choose to honor the law at a distinct electoral disadvantage.

This is not the first time that this Club launched initiatives financed in disregard of the requirements of federal law. The Club for Growth was cited repeatedly in the recent decision as exhibit number one for why the law was a necessary measure to prevent

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soft money corruption of our political system. Hence Judge Leon wrote, in his Finding number 303, "the Club for Growth is primarily dedicated to promoting the election of pro-growth, pro-freedom candidates through political contributions and issue advocacy campaigns."

Even before the new law, the Club was raising money explicitly for the purpose of influencing elections and then spending the money consistent with that express intent. As Judge Leon also noted, in his Finding number 296, the Club for Growth is "a conservative Republican group [which] bluntly discusses its electioneering activities on its website: they include direct contributions, bundled contributions and issue ads." Yet Federal law requires any committee whose primary purpose is to influence a federal election to register and report to FEC as soon as it raises more than \$1000. Given the admitted nature of Club, it is mystery why it has never filed as a political committee with the FEC.

The advertising campaign now underway is being financed with money raised in appeals similar to the one cited by Judge Kollar-Kottelly in which a Republican Congressman signed a fundraising letter stating:

The Club for Growth selected my race as one of its *top priorities*. . . . Since the Club targets the most competitive races in the country, your membership in the Club will help Republicans keep control of Congress.¹

There is no doubt that raising money in response to such solicitations, once the contributions total more than \$1000, triggers the requirement that the entity register and report to the Federal Election Committee. The reason the Club for Growth does not register is clear. It would have to disgorge the quarter-million dollars in soft money contributions that it is receiving from its stable of wealthy benefactors. It would have to play by the same rules that all the candidates that it attacks must abide by. It could no longer use its soft money to corrupt our elections.

¹ Finding number 274

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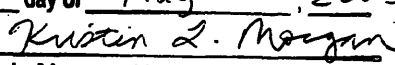
Very truly yours,


Robert F. Bauer


Marc E. Elias

COUNSEL FOR DSCC

RFB:mjs

District of Columbia
Subscribed and Sworn to before me in my presence
this 13 day of May, 2003

Kristin L. Morgan, Notary Public, D.C.
My commission expires 2008