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RECEIVED  
FEDERAL ELECTION  
COMMISSION

2009 JUN 24 PM 2:59

OFFICE OF GENERAL  
COUNSEL

In the matter of:

Senator John Ensign  
Ensign for Senate  
Battle Born Political Action  
Committee

MUR No. 6200

**SENSITIVE**

### COMPLAINT

1. Citizens for Responsibility and Ethics in Washington ("CREW") and Melanie Sloan bring this complaint before the Federal Election Commission ("FEC") seeking an immediate investigation and enforcement action against Senator John Ensign, Ensign for Senate and the Battle Born Political Action Committee for direct and serious violations of the Federal Election Campaign Act ("FECA").

#### Complainants

2. Complainant CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the right of citizens to be informed about the activities of government officials and to ensuring the integrity of government officials. CREW is dedicated to empowering citizens to have an influential voice in government decisions and in the governmental decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission.

3. In furtherance of its mission, CREW seeks to expose unethical and illegal conduct of those involved in government. One way CREW does this is by educating citizens regarding the integrity of the electoral process and our system of government. Toward this end, CREW monitors the campaign finance activities of those who run for federal office and publicizes those who violate federal campaign finance laws. Through its website, press releases and other methods of distribution, CREW also files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance

violators and filing complaints with the FEC serves CREW's mission of keeping the public informed about individuals and entities who violate campaign finance laws and deterring future violations of campaign finance law.

4. In order to assess whether an individual, candidate, political committee or other regulated entity is complying with federal campaign finance law, CREW needs the information contained in receipts and disbursements reports that political committees must file pursuant to the FECA, 2 U.S.C. § 434(a)(2); 11 C.F.R. § 104.1. CREW is hindered in its programmatic activity when an individual, candidate, political committee or other regulated entity fails to disclose campaign finance information in reports of receipts and disbursements required by the FECA.

5. CREW relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated reports of receipts and disbursements are the only source of information CREW can use to determine if a candidate, political committee or other regulated entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all reports of receipts and disbursements required by the FECA are properly and timely filed with the FEC. CREW is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

6. Complainant Melanic Sloan is the executive director of Citizens for Responsibility and Ethics in Washington, a citizen of the United States and a registered voter and resident of the District of Columbia. As a registered voter, Ms. Sloan is entitled to receive information contained in reports of receipts and disbursements required by the FECA, 2 U.S.C. § 434(a)(2); 11 C.F.R. § 104.1. Ms. Sloan is harmed when a candidate, political committee or other regulated entity fails to report campaign finance activity as required by the FECA. See FEC v. Akins, 524 U.S. 11,

19 (1998), quoting Buckley v. Valeo, 424 U.S. 1, 66-67 (1976) (political committees must disclose contributors and disbursements to help voters understand who provides which candidates with financial support). Ms. Sloan is are further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting their ability to review campaign finance information.

#### Respondents

7. John Ensign is a United States Senator representing the State of Nevada. Ensign for Senate is Senator John Ensign's principal campaign committee. The Battle Born Political Action Committee is Senator John Ensign's leadership PAC.

#### Factual Allegations

8. Cynthia L. Hampton served as the treasurer of Ensign for Senate from February 23, 2007 until on or about May 20, 2008. Ms. Hampton also served as treasurer of the Battle Born Political Action Committee from February 12, 2008 until on or about May 20, 2008. On or about May 20, 2008, Ms. Hampton was terminated from her positions as treasurer of Ensign for Senate and the Battle Born Political Action Committee by Senator John Ensign. At some point thereafter, Senator John Ensign paid Ms. Hampton an unknown amount of money out of his own pocket as a severance payment in recognition of her termination as the treasurer of Ensign for Senate and the Battle Born Political Action Committee. See Rutenberg and Friess, *After Affair, Senator Resigns Leadership Job*, N.Y. Times, June 18, 2009 attached hereto as Exhibit A. The severance payment by Senator John Ensign to Ms. Hampton was not reported to the Federal Election Commission by either Ensign for Senate or the Battle Born Political Action Committee.

#### COUNT I

9. FECA defines the term "contribution" to include "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). The

term also includes "the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose." 2 U.S.C. § 431(8)(A)(ii). FEC regulations further define the phrase "anything of value" in 2 U.S.C. § 431(8)(A)(i) to include "all in-kind contributions." 11 C.F.R. § 100.52(d)(1). All political committees, including principal campaign committees and leaderships PACs, are required to report to the Federal Election Commission the identity of any person who makes a contribution, including an in-kind contribution, that exceeds \$200 within a calendar year. 2 U.S.C. § 434(b)(3)(A); 11 C.F.R. § 104.13.

10. The severance payment by Senator John Ensign to Ms. Hampton constituted an in-kind contribution by Senator Ensign to both Ensign for Senate and the Battle Born Political Action Committee. By failing to report this in-kind contribution, both Ensign for Senate and the Battle Born Political Action Committee violated 2 U.S.C. § 434(b)(3)(A) and 11 C.F.R. § 104.13.

#### COUNT II

11. FECA prohibits any individual, including the sponsor of a leadership PAC, from contributing more than \$5,000 in a calendar year to a leadership PAC. 2 U.S.C. § 441a(a)(1)(C). To the extent that the severance payment by Senator John Ensign to Ms. Hampton in recognition of her termination as the treasurer of the Battle Born Political Action Committee exceeded \$5,000, Senator John Ensign violated 2 U.S.C. § 441a(a)(1)(C).

#### CONCLUSION

WHEREFORE, Citizens for Responsibility and Ethics in Washington and Melanie Sloan request that the Federal Election Commission conduct an investigation into these allegations, declare the respondents to have violated the Federal Election Campaign

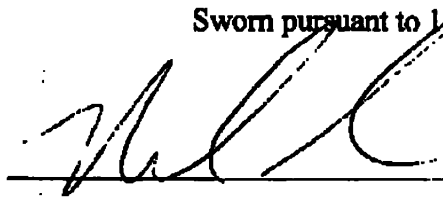
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Act and applicable FEC regulations, and impose sanctions appropriate to these violations and take such further action as may be appropriate.

### Verification

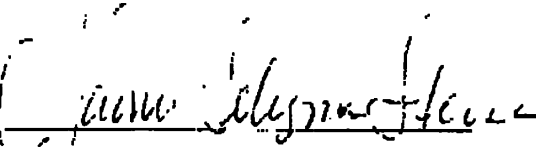
Citizens for Responsibility and Ethics in Washington and Melanie Sloan hereby verify that the statements made in the attached Complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.



Melanie Sloan

Sworn to and subscribed before me this 24<sup>th</sup> day of June, 2009.



Notary Public

NAOMI SELIGMAN STEINER  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires June 30, 2011

District of Columbia: SS

Subscribed and sworn to before me, in my presence,

On 24 day of June, 2009



Notary Public, D.C.

My commission expires June 30, 2011

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FEDERAL ELECTION  
COMMISSION

2009 JUN 24 PM 3:00

OFFICE OF GENERAL  
COUNSEL

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**EXHIBIT A**

**The New York Times**

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June 18, 2009

## After Affair, Senator Resigns Leadership Job

By **JIM RUTENBERG** and **STEVE FRIESS**

WASHINGTON — Senator John Ensign of Nevada resigned his position as the fourth-ranking Republican leader in the Senate on Wednesday after publicly confessing to an extramarital affair with a former staff member.

It was another blow to his party, but one that Senate Republicans hoped would help shield the party's leadership from the senator's embarrassing marital issues.

Mr. Ensign, whose current term does not expire until 2013, will retain his Senate seat.

The news was announced midday Wednesday by the Republican leader in the Senate, Mitch McConnell of Kentucky, who must now find a successor to Mr. Ensign as chairman of the Republican Senate Policy Committee, which helps set the party's legislative agenda.

"He's accepted responsibility for his actions and apologized to his family and constituents," Mr. McConnell said in a statement. "He offered, and I accepted, his resignation as chairman of the policy committee."

Republican officials said they were hopeful that Mr. Ensign, considered a future star of the party, would have enough time to make amends with voters in his home state and recoup some of his luster; before he announced his affair on Tuesday, he had been considered a potential contender for the presidency in 2012.

But Republican officials were also wary of potentially troubling signs that the issue would remain in the public realm for some time.

Late Wednesday, Daniel Albrechts, a Las Vegas lawyer, said he was representing the woman with whom Mr. Ensign had the affair, his former political aide Cindy Hampton, and her husband, Doug Hampton, who served as an aide to Mr. Ensign in the Senate at the time of the affair.

In a statement, Mr. Albrechts said, "It is unfortunate the senator chose to air this very personal matter, especially after the Hamptons did everything possible to keep this matter private."

"In time," he added, "the Hamptons will be ready and willing to tell their side of the story."

Mr. Albrechts and the Hamptons did not respond to detailed messages asking about statements by people close to Mr. Ensign in Nevada and Washington that Mr. Hampton was seeking a large sum of money and that upon refusing him, Mr. Ensign decided to go public with the affair.

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A spokesman for the Federal Bureau of Investigation, Dave Staretz, said the bureau was not investigating the accusations.

A person close to Mr. Ensign's family, who spoke only on condition of anonymity, said the senator had confessed the affair to his wife many months ago and, upon reconciling with her and attending counseling, dismissed Ms. Hampton from his political team with a severance that he paid from his own pocket.

A spokesman for Mr. Ensign would not respond to a request for comment on the matter.

Officials at the National Republican Senatorial Committee had no comment on election records that showed that the Hamptons' son, Brandon Hampton, had worked at the committee as a researcher when Mr. Ensign was its chairman and during the same period as the affair.

Federal Election Commission records show he was paid \$5,400 from March to August of 2008.

A spokeswoman for Mr. Ensign who was also at the committee at the time, Rebecca Fisker, did not return a call seeking comment.

*Jim Rutenberg reported from Washington, and Steve Friess from Las Vegas.*

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