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FEDERAL ELECTION  
COMMISSION

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FEC MAIL CENTER

OFFICE OF GENERAL  
COUNSEL

Pat Waak, Chair, Colorado Democratic Party  
777 Santa Fe Drive  
Denver, CO 80204

Complainant,

v.

Senator James DeMint  
P.O. Box 12425  
Columbia, SC 29211

MUR # 6407

Senate Conservatives Fund  
Lisa Lisker, Treasurer  
228 S. Washington St., Suite 115  
Alexandria, VA 22314

Buck for Colorado  
Kenneth Salazar, Treasurer  
P.O. Box 337118  
Greeley, CO 80633

Kenneth Buck  
P.O. Box 337118  
Greeley, CO 80633

Respondents.

**FEDERAL ELECTION COMMISSION  
COMPLAINT**

Complainant files this complaint with the Federal Election Commission (the "FEC" or "Commission") under 2 U.S.C.

§ 437g(a)(1) (2010) against Senator James DeMint; his leadership PAC, Senate Conservatives Fund, Lisa Lisker, Treasurer; Ken Buck, a Republican candidate for Senate from Colorado; and Buck's campaign committee, Buck For Colorado, Ken Salazar, Treasurer (collectively "Respondents") for numerous violations

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of the Federal Election Campaign Act of 1971, as amended ("FECA" or the "Act"). Ken Buck is running for Senate in Colorado, and one of his campaign's biggest backers is Senator DeMint. Senator DeMint has been meeting with Buck, campaigning with Buck, sending fundraising letters to solicit funds for Buck, and DeMint's leadership PAC, Senate Conservatives Fund ("SCF") has transferred hundreds of thousands of dollars to Buck in earmarked contributions.

Despite all of this work for Buck, however, DeMint's leadership PAC has also made almost \$200,000 in "independent expenditures" to support Buck, including a large buy for radio advertisements. If all of these expenditures were not in fact "independent," a claim hard to believe given the circumstances, then the expenditures actually constitute illegal, excessive contributions. The FEC should immediately investigate the full scope of the coordination between Buck and DeMint and his leadership PAC to determine the extent to which SCF has been supporting Buck in violation of the Act.

#### **Factual Background**

1. Ken Buck is running for Senate in Colorado with a lot of support from Senator DeMint and DeMint's leadership PAC, SCF. DeMint first endorsed Buck in April 2010.<sup>1</sup>

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<sup>1</sup> See John Tomasic, "DeMint on Buck endorsement: 'We've got to have an earthquake election,'" Colorado Independent (April 14, 2010) available at

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2. Since that point, DeMint has actively campaigned with Buck, even meeting with the candidate and attending campaign rallies.<sup>2</sup> For example, on July 8, 2010, DeMint traveled to Denver to talk to Buck and then join him at a campaign event to speak on his behalf.<sup>3</sup>
3. This meeting took place right in the middle of a spending spree by DeMint's leadership PAC to support Buck, which DeMint and SCF claim to be "independent." According to its FEC reports, on June 29, 2010, SCF spent \$29,500 on a "Buck-Email List" to support Buck's candidacy. Then, not more than 8 days after DeMint and Buck were meeting and campaigning together, DeMint's leadership PAC spent \$37,750 on a media buy for Buck radio spots.
4. A few weeks later, DeMint's leadership PAC spent another \$55,150, again on a media buy to support Buck. Right before and right after DeMint and Buck campaigned together, DeMint's leadership PAC also sent out emails to raise funds for Buck's campaign.<sup>4</sup> By the end of August, SCF had already

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<http://coloradoindependent.com/51373/demint-on-buck-endorsement-%E2%80%98weve-got-to-have-an-earthquake-election%E2%80%99>.

<sup>2</sup> See Manu Raju, "DeMint PAC fills primary coffers," Politico (August 10, 2010) available at <http://dyn.politico.com/printstory.cfm?uuid=59AC4C6B-18FE-70B2-A8BFA3BDC5A638B6> (hereinafter "PAC Fills Coffers").

<sup>3</sup> See Joseph Boven, "DeMint joins Buck in bucking Republican establishment candidates," Colorado Independent (July 9, 2010) available at <http://coloradoindependent.com/57113/demint-joins-buck-in-bucking-republican-establishment-candidates>.

<sup>4</sup> See <http://www.desertconservative.com/2010/06/24/colorado-ken-buck-for-u-s-senate-needs-your-support/>, <http://www.desertconservative.com/2010/06/28/colorado-ken-buck-for-u-s->

transferred \$235,769 to Buck for Colorado in earmarked contributions according to FEC reports.

5. When asked about the inconsistency of campaigning with Buck but also claiming to make "independent expenditures" on Buck's behalf, DeMint correctly stated that "He can't know what I'm doing [and] I don't know what they're doing except what I find out on their website."<sup>5</sup> Yet, DeMint did know what Buck was doing, because he was there in Denver doing it with him.

#### Legal Analysis

6. Under 2 U.S.C. § 441a, a multicandidate PAC may not contribute more than \$5,000 to another candidate's campaign committee. Pursuant to 2 U.S.C. § 441a(a)(7)(B)(i), "expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate."
7. The Commission's regulations implementing this provision further explain that an expenditure for a communication will be considered an in-kind contribution to a campaign if it (1) is paid for by an entity other than the campaign;

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senate-conservative-and-feared-by-the-left/,  
http://www.desertconservative.com/2010/08/29/take-back-america-conservatives-  
must-prevail/,

<sup>5</sup> See PAC Fills Coffers, *supra* note 1.

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(2) meets certain content standards, including by being an electioneering communication, public communication that contains express advocacy, or a public communication that clearly identifies a candidate for the Senate within 90 days of an election; and (3) meets certain conduct standards regarding the coordination between who paid for the ad and the campaign. See 11 C.F.R. §§ 109.20(b), .21.

8. Whether or not there is "formal collaboration," an expenditure is coordinated with a campaign under the conduct prong when it is at the request or suggestion of the campaign, when the campaign has "material involvement" with the expenditure, if there was "substantial discussion" with the campaign about an expenditure, or if there are several other types of coordinating conduct. See 11 C.F.R. § 109.21(d).

9. Here, the expenditures made by DeMint's leadership PAC appear to satisfy all three prongs of the coordination test and therefore constitute illegal contributions made in excess of the \$5,000 limit.

10. Given that SCF has reported its expenditures as "independent expenditures" in support of Buck to the FEC, there is no question that the first two requirements of the coordination test are met.

11. As they have been meeting and campaigning together, it is likely that the conduct between DeMint and Buck and their committees and agents also satisfies the third prong of the coordination test. The FEC should therefore immediately investigate the full extent of this coordination to determine whether SCF and has been making and Buck has been accepting contributions in violation of the law.

**REQUESTED ACTION**

Respondents appear to have violated the Act by coordinating what they have reported as "independent expenditures," and therefore making and receiving contributions in excess of the statutory limits. We respectfully request that the Commission investigate these violations and any additional coordination between Senator DeMint, Senate Conservatives Fund, Ken Buck, and Buck for Colorado; enjoin Respondents from further violations of the Act; and assign the maximum fines permitted by law.

Sincerely,



**Pat Waak, Chair, Colorado  
Democratic Party**

SUBSCRIBED AND SWORN to before me this 22 day of October, 2010.



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Notary Public

My Commission Expires:

7-8-2013



My Comm. Exp. 07-08-2013

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