

March 19, 2012

Christopher Hughey, Esquire
Acting General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

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OFFICE OF GENERAL
COUNSEL

Re: Eric Klingemann and Eric for Texas Campaign

Dear Mr. Hughey:

MUR # 6548

Pursuant to 2 USC § 437g(a)(1) and 11 CFR § 111.4, please accept this letter as a Complaint against Eric Klingemann ("Klingemann") and Eric for Texas Campaign ("the Committee") for operating in violation of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Federal Election Commission ("FEC" or "Commission") regulations, and more specifically, for knowingly accepting illegal corporate contributions and corporate-facilitated contributions in violation of 11 CFR § 114.2. In addition, certain public communications made by Klingemann and the Committee failed to include the disclaimers required by 2 USC § 441d.

I. Facts

Klingemann is a candidate for the U.S. House of Representatives, campaigning to represent Texas' 31st Congressional District. Klingemann filed his FEC Form 2 Statement of Candidacy on February 28, 2012. Eric for Texas Campaign is the principal campaign committee for Klingemann. The Committee filed its FEC Form 1, Statement of Organization on February 21, 2012.

On March 14, 2012, a supporter of Klingemann circulated via email a flyer advertising a 25 gun raffle in support of the Committee. The flyer stated that "A donation of \$100 per ticket is required" and that "Prizes will be picked up at GUNS+ of Georgetown, Texas." The flyer stated that the raffle was "Sponsored by Eric Klingemann for Congress and GUNS+." GUNS+ business status, whether corporate or not, is unclear. How GUNS+ "sponsored" the raffle is also unclear. The flyer did not contain any disclaimers whatsoever. *See Exhibit 1.*

The email also contained a second flyer that listed the guns that were to be raffled off and that also included the logos for 21 gun manufacturers including Smith & Wesson, Rossi, Marlin, Remington, Walther, Stoeger, Ruger, Mossberg, Browning, Benelli, and Henry, among others. This second flyer also contained no disclaimers whatsoever. *See Exhibit 2.*

An Internet search of the value of the guns revealed that the guns ranged in average price from \$176.40 and \$1,800.40. The total average value of all 25 guns is \$12,701. *See Exhibit 3.* It is unclear if the Committee purchased the guns for the raffle or if the guns were in-kind contributions from GUNS+ or another contributor.

II. Relevant Law

A contribution is defined as is anything of value given to influence a federal election. 11 CFR § 100.52(a). Corporations are prohibited from making contributions to federal political committees, and federal political committees are prohibited from knowingly accepting or receiving contributions made from the general treasury funds of corporations. 11 CFR § 114.2 (a), (d). In-kind contributions include goods and services offered free of charge. 11. CFR §§100.52(d)(1) and 100.54.

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Additionally, corporations are prohibited from using corporate resources to facilitate the making of contributions to candidates or political committees. Facilitation includes any use of corporate resources to engage in fundraising activities in connection with a federal election. 11 CFR § 114.2(f)(1). Because corporate names and trademarks are considered to be corporate resources, a corporation is prohibited from lending its name or trademark to a political committee for fundraising efforts. See 11 CFR § 114.2(f)(4)(ii); A.O. 2007-10 at 2 (stating that a candidate's committee could not display corporate names and trademarks at a fundraising event).

Similarly, candidates and federal political committees are prohibited from knowingly receiving corporate-facilitated contributions. 11 CFR § 114.2(d).

Any public communication made by a political committee must display a disclaimer. 11 CFR 110.11(a)(1). A public communication is defined, in part, as any "general public political advertising." 11 CFR 100.26.

If the communication is paid for and authorized by a candidate, an authorized committee of a candidate, or an agent of either, the disclaimer must clearly state that the communication has been paid for by the authorized political committee. 11 CFR 110.11(b)(1). All disclaimers must be "clear and conspicuous." 11 CFR 110.11(c)(1). In addition, disclaimers on printed materials must be of sufficient type size to be clearly readable, set aside in a box, and printed with a reasonable degree of color contrast between the background and the printed statement. 11 CFR 110.11(c)(2).

When a campaign solicits contributions, those solicitations are subject to several disclaimer requirements. First, in order to deposit unassigned contributions into its federal account, the committee must inform donors that their contributions will be used in connection with a federal election or that they are subject to the limits and prohibitions of the Act ("Federal Election Purpose Notification"). 11 CFR 102.5(a)(2)(ii).

Second, a campaign committee must include a clear and conspicuous statement informing contributors that the committee is required by law to use its best efforts to collect and report information regarding the name, address, occupation, and employer of contributors who give in excess of \$200 in an election cycle ("the Best Efforts Notification"). 11 CFR § 104.7(a).

Third, solicitations must also comply with Internal Revenue Service ("IRS") notice requirements. Section 6113 of the Internal Revenue Code requires political committees whose gross annual receipts normally exceed \$100,000 to include a special notice on their solicitations to inform solicited that contributions are not tax deductible ("IRS Disclosure Notice").

To solicit "means to ask, request, or recommend, explicitly or implicitly, that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value. A solicitation is an oral or written communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting, or recommending that another person make a contribution, donation, transfer of funds, or otherwise provide anything of value." 11 CFR § 300.2(m).

III. Legal Analysis

Klingemann and the Committee violated the Act and FEC regulations by knowingly receiving contributions facilitated by corporate resources.

Klingemann and the Committee used corporate logos in the Committee's fundraising efforts. The flyer for the fundraising raffle contains 21 corporate logos and also the name of GUNS+, though the corporate

status of GUNS+ is unclear. The use of corporate logos in fundraising and possibly the use of the GUNS+ name constitute the impermissible use of corporate resources to engage in fundraising activities in connection with a federal election.

Furthermore, the Commission should investigate the business status of GUNS+ and how it "sponsored" the raffle. The flyer raises a number of questions about potential contributions from GUNS+ to the Committee, including the use of the GUNS+ name and the possible contribution of the guns to the Committee. Depending on the business status of GUNS+, the Committee may have received illegal corporate in-kind contributions.

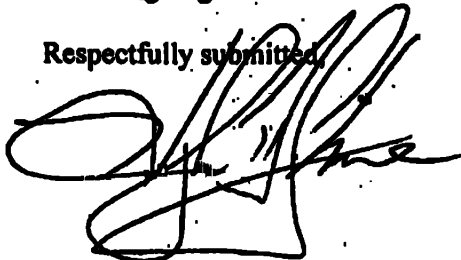
In addition, Klingemann and the Committee have willfully disregarded Federal law by failing to include disclaimers on the flyer, which clearly meets the definition of a public communication as set forth in FEC regulations. Federal law requires that the Committee's public communications, such as the Flyer, include disclaimers in order to indicate who authorized and paid for the communication. Failure to include a disclaimer on a public communication or website paid for by a Federal political committee is a violation of 2 USC § 441d and 11 CFR § 110.11.

IV. Conclusion

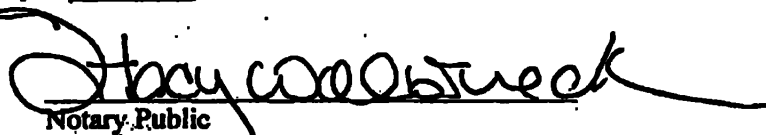
Upon information and belief, and based upon the facts relayed herein, Eric Klingemann and Eric for Texas Committee have violated the Federal Election Campaign Act of 1971, as amended, and Federal Election Commission Regulations. Accordingly, we respectfully request that the Commission conduct an immediate investigation into the violations outlined above and impose the maximum penalty under law.

The foregoing is correct and accurate to the best of my knowledge, information and belief.

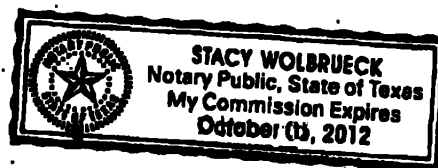
Respectfully submitted,



Sworn to and subscribed before me this 29 day of March 2012.


Notary Public

My Commission Expires:



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I do not have personal stationery for my letter.

Contact information:

**Hugh D. Shine
P.O. Box 793
Temple, Texas 76503**

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