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FEDERAL ELECTION COMMISSION

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MUR 6793

DATES COMPLAINT FILED: 3/7/14, 6/23/14

DATES OF NOTIFICATION: 3/11/14, 3/24/15

DATE OF LAST RESPONSE: 4/8/15

DATE ACTIVATED: 10/7/14

EXPIRATION OF SOL¹: 2/18/19 — 7/12/19

ELECTION CYCLE: 2014

COMPLAINANT:

Texans for Stovall and Katherine Brackeen Stovall
in her official capacity as treasurer

RESPONDENTS:

Steve Stockman for Senate and Daniel J. Wholihan
in his official capacity as treasurer
Steve Stockman
The Center for the American Future, Inc.
Jason Posey

**RELEVANT STATUTES AND
REGULATIONS:**

52 U.S.C. § 30116(a)(7)(B)(i)
52 U.S.C. § 30116(a)
52 U.S.C. § 30116(f)
52 U.S.C. § 30118(a)
52 U.S.C. § 30120
11 C.F.R. § 109.21

INTERNAL REPORTS CHECKED:

Disclosure Reports

AGENCIES CHECKED:

Texas Secretary of State
U.S. District Court for the Southern District of Texas

I. INTRODUCTION

The Complaint alleges that then-Congressman Steve Stockman impermissibly coordinated with the Center for the American Future, Inc. ("CAF"), a 501(c)(4) organization, on a mailer expressly advocating Stockman's election to the Senate in 2014, and that the mailer lacked the

¹ Due to the parallel criminal proceeding, we requested tolling from each of the Respondents. We did not receive tolling from Steve Stockman for Senate, Steve Stockman, individually, or the Center for the American Future, Inc. Counsel for Jason Posey signed a 120 day tolling agreement, thus extending the statute of limitations for Posey's violations as follows: June 18, 2019 (earliest); July 12, 2019 (latest).

1 requisite disclaimer. According to the Complaint, Stockman coordinated with the founder of
2 CAF, Jason Posey, who had previously served as treasurer of Stockman's Senate committee,
3 Steve Stockman for Senate and Daniel Wholihan in his official capacity as treasurer
4 ("Committee").² Respondents denied the allegations, supported by Posey's sworn affidavit. This
5 Office circulated a First General Counsel's Report based on the available record which included
6 the information in the Complaint and the responses, recommending that the Commission find no
7 reason to believe respondents violated the Federal Election Campaign Act of 1971, as amended
8 (the "Act").³

9 We withdrew the report in light of a subsequent criminal indictment in the U.S. District
10 Court for the Southern District of Texas against Steve Stockman and Jason Posey that revealed
11 additional facts about the mailer that is the subject of MUR 6793. The indictment alleged, *inter*
12 *alia*, that the mailer was coordinated between Stockman, the Committee, Posey, and CAF, and
13 that Posey falsely stated in his affidavit filed with the Commission that no such coordination
14 occurred.⁴ Stockman and Posey were charged with knowingly and willfully making and causing
15 to make excessive contributions to Stockman's Senate Committee in violation of 52 U.S.C.
16 §§ 30116(a)(1)(A) and (a)(7)(B)(i), among other violations. Posey was charged with falsification
17 of records in a federal investigation for the false affidavit filed with the Commission.⁵

² Compl. at 1-2 (Mar. 7, 2014).

³ MUR 6793 First Gen. Counsel Rpt. (Jan. 23, 2017).

⁴ MUR 6793 Memorandum to the Commission (Apr. 7, 2017); First Superseding Indictment, *United States v. Stephen E. Stockman, Jason T. Posey*, 4:17-CR-116 (S.D. Tex. Mar. 28, 2017) ("Criminal Indictment"); Complaint, *United States v. Stephen E. Stockman*, H17-0331M (S.D. Tex. Mar. 17, 2017).

⁵ See 18 U.S.C. § 1519; Criminal Indictment at 36-37.

1 Following the criminal indictment, Posey pled guilty to mail fraud, wire fraud, and money
2 laundering.⁶ On July 31, 2018, Posey, as part of his plea agreement, and based on his financial
3 circumstances, agreed to make payments of \$200 a month beginning August 1, 2018, and
4 continuing until he is incarcerated, in anticipation of his restitution debt for mail and wire fraud
5 and money laundering, which amount is yet to be determined by the court.⁷ Posey's sentencing
6 hearing is scheduled for November 20, 2018.

7 Stockman was found guilty of 23 criminal counts following a four-week jury trial,
8 including aiding and abetting the making and causing to make excessive contributions
9 aggregating in excess of \$25,000 in violation of 52 U.S.C. §§ 30116(a)(1)(A), (a)(7)(B)(i) and
10 30109(d)(1)(A)(i).⁸ Based on the First Superseding Indictment and the jury verdict, on July 3,
11 2018, the court issued an order imposing a money judgment as to Stockman in the amount of
12 \$1,250,571.65 for forfeiture of property derived from the mail and wire fraud and money
13 laundering offenses, which will become final and included in the judgment at Stockman's
14 sentencing hearing scheduled for November 7, 2018.⁹

15 As discussed below, we recommend that the Commission dismiss the allegations that
16 Posey and CAF made, and Stockman and the Committee received, prohibited in-kind

⁶ See 18 U.S.C. §§ 2, 1341, 1343, 1957; Plea Agreement and Plea Agreement-Addendum, *United States v. Jason T. Posey*, H-17-116S-03 (S.D. Tex. Oct. 11, 2017) ("Posey Plea Agreement").

⁷ See Agreed Order for Monthly Payments, *United States v. Jason T. Posey*, H-17-116S-03 (S.D. Tex. July 31, 2018).

⁸ See Verdict, *United States v. Stephen E. Stockman*, H-17-116-S (S.D. Tex. Apr. 12, 2018). On May 28, 2018, Stockman filed a Motion for Judgment of Acquittal. Stockman's Rule 29 Motion for Judgment of Acquittal, *United States v. Stephen v. Stockman*, 4:17-cr-0016(2) (May 28, 2018). On June 13, 2018, Stockman's motion was denied. Order, *United States v. Stephen E. Stockman*, H-17-116-2 (June 13, 2018) ("Order Denying Motion for Judgment of Acquittal").

⁹ See Order Imposing Money Judgment, *United States v. Stephen E. Stockman*, 4:17-cr-116-2 (July 5, 2018); Order Resetting Sentencing, *United States v. Stephen E. Stockman*, 4:17-cr-116-2 (July 24, 2018).

1 contributions in connection with the mailer. Further, we recommend that the Commission close
2 the file. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

3 **II. FACTS**

4 Steve Stockman was the U.S. Representative for Texas's 36th Congressional District from
5 January 2013 through January 2015. On December 18, 2013, Stockman filed a Statement of
6 Candidacy for the March 4, 2014, Republican primary election for U.S. Senate in Texas,¹⁰ and
7 designated the Committee as his principal campaign committee for that election.¹¹

8 In August 2013, Jason Posey registered CAF in Texas as a nonprofit corporation; the
9 entity dissolved on January 29, 2016.¹² On CAF's Texas Secretary of State filings, Posey is listed
10 as CAF's Director; in his Supplemental Response to the Complaint, Posey identifies himself as its
11 President.¹³ At the time he registered CAF, it appears that Posey also worked as a consultant for
12 Stockman's House campaign committee, Friends of Congressman Steve Stockman.¹⁴ From
13 January 3, 2013, through October 15, 2013, Posey was also employed as Special Projects Director
14 of Stockman's congressional office.¹⁵

¹⁰ *See* Steve Stockman Statement of Candidacy, FEC Form 2, Dec. 18, 2013. Stockman lost the primary election.

¹¹ *See* Steve Stockman for Senate Statement of Organization, FEC Form 1, Dec. 13, 2013. The Committee organized as "Steve Stockman for Senate" and later changed its name to "Team Stockman." *See* Amended Statement of Organization, FEC Form 1, July 17, 2014. Thereafter, the Committee changed its name back to "Steve Stockman for Senate." *See* Amended Statement of Organization, FEC Form 1, Feb. 28, 2015.

¹² Dun and Bradstreet, *Center for the American Future, Inc.* profile. Retrieved May 24, 2016.

¹³ *See id.*; Texas Secretary of State filing, Center for the American Future, Inc. (registered Aug. 28, 2013); CAF Supp. Resp. at 4 (Mar. 25, 2015).

¹⁴ From January 30, 2013, through November 20, 2013, Posey signed and filed disclosure reports for Stockman's House campaign committee. *See* Friends of Congressman Steve Stockman Amended Statements of Organization (Jan. 31, 2013 and Jan. 14, 2014). In addition, Stockman's congressional committee made a \$4,956 disbursement to Posey on July 24, 2014, for "consulting fees." Friends of Congressman Steve Stockman October 2014 Quarterly Report at 8.

¹⁵ *See* Office of Congressional Ethics Report and Findings Review No. 13-6070 at 10 (Feb. 27, 2014).

1 The mailer at issue was apparently distributed by CAF no later than February 24, 2014,
2 when it became the subject of a news article.¹⁶ The 16-page document was styled to look like a
3 newspaper — it is titled *The Conservative News* and the front page contains the word “Free” near
4 the upper right corner.¹⁷ The heading states: “This is a print version of the online Conservative
5 News, available for download at CenterForTheAmericanFuture.com.” The mailer includes
6 articles and photographs of Stockman, Stockman’s primary opponent U.S. Senator John Cornyn,
7 and other political figures. The lead article on the front page is headlined, “Cornyn betrays Cruz,
8 funds Obamacare,” next to a photograph of Senator Cornyn shaking hands with President Obama.
9 Other articles in the mailer contain headlines such as “Pro-Lifers: Cornyn Voted to Fund
10 Abortion,” “Cornyn Maneuvers to Help Reid Pass Illegal Alien Amnesty,” “Cornyn Blasts Open
11 Carry Law,” and “Pro-gun groups back Stockman.”¹⁸ The mailer contains no disclaimer.¹⁹

¹⁶ The Complaint did not provide a copy of the mailer at issue. Rather, it contains a hyperlink to a press article dated February 24, 2014, which contained a hyperlink to *The Conservative News*, which was not functioning at the time we received the Complaint. See Nick Swartsell, *Group Responsible for Newspaper-like Mailings Has Ties to Stockman*, DALLAS MORNING NEWS, Feb. 24, 2014, <http://trailblazersblog.dallasnews.com/2014/02/group-responsible-for-newspaper-like-mailings-has-ties-to-stockman.html> (“Swartsell, *Group Responsible*”). We obtained a copy of the mailer via an archived version of the CAF website from March 6, 2014. See <https://web.archive.org/web/20140306025347/http://centerfortheamericanfuture.com/>. The CAF website ceased functioning as of February 21, 2016. The *Conservative News* itself is not dated.

¹⁷ See Attachment 1.

¹⁸ See *id.*

¹⁹ We note that the newspaper-like mailers in this matter are similar to those distributed during Stockman’s past congressional campaigns by the Stockman campaign itself. These mailers were the subject of two previous enforcement matters. See MUR 3847 (Friends of Congressman Steve Stockman) (Commission found probable cause to believe, *inter alia*, that newspaper-like mailings related to Stockman’s 1994 campaign committee contained advertisements in support of Stockman’s candidacy and solicited contributions on his behalf, but failed to include the appropriate disclaimers, and accepted a conciliation agreement containing a \$40,000 civil penalty in settlement of the violations); MUR 6625 (Friends of Congressman Steve Stockman, *et al.*) (There were an insufficient number of votes to find reason to believe that three of Stockman’s 2012 congressional campaign committee’s newspaper-like mailings either failed to include a disclaimer or failed to comply with disclaimer specifications).

1 The Complaint describes CAF's mailer as "fake newspapers 'praising' Stockman and
2 'slamming' Cornyn" and alleges it was coordinated with Stockman and his Senate campaign
3 committee.²⁰ In responses filed before the indictments, Respondents denied the allegations in the
4 Complaint and request that it be dismissed. The Committee denied any illegal coordination
5 between it and CAF or that Posey was ever its treasurer.²¹ CAF's Response also denies
6 coordination between it and the Committee, stating that its activities "were not conducted in
7 cooperation, consultation, or concert with or at the request or suggestion of Steve Stockman, the
8 Campaign or any agent of the Campaign."²² Posey, by sworn affidavit, avers: "Neither Steve
9 Stockman, the Campaign, nor any agent of the Campaign had any material involvement or
10 substantial discussions with me, the Center, or any other officers or agents of the Center related to
11 the Center activities."²³

12 In Posey's guilty plea, however, he admitted that the affidavit he submitted to the
13 Commission was false and was intended to "impede and obstruct an FEC investigation into
14 Stockman's involvement in the printing, publication, and distribution" of the mailers.²⁴
15 Specifically, Posey admitted that the following statements in his affidavit were knowingly false:

²⁰ Compl. at 2. The Complaint quotes the terms "praising" and "slamming" from the cited press article. See Swartzell, *Group Responsible*. As evidence of the alleged coordination, Complainant asserts that CAF's website contained a donor data file reflecting credit card transactions of donations to Stockman's Senate campaign committee. Compl. at 1-2; Supp. Compl. (June 23, 2014).

²¹ Stockman Resp. at 1 (June 6, 2014). Respondents assert that the donor data file was a nonworking template developed by a web designer, and used to test web page functionality and to build Stockman for Senate and CAF's respective websites, and that no committee donations were ever redirected to CAF or any other party. See Stockman Resp. at 1; Stockman Supp. Resp. at 2 (Apr. 6, 2015); CAF Supp. Resp. at 1-4.

²² CAF Resp. at 1.

²³ Posey Aff. ¶ 6.

²⁴ Posey Plea Agreement at 15.

1 (1) that the mailers "were not conducted in cooperation, consultation, or concert with or at the
2 request or suggestion of Steve Stockman, Stockman for Senate Campaign . . . , or any agent of the
3 Campaign;" and (2) that "[n]either Steve Stockman, the Campaign, nor any agent of the
4 Campaign had any material involvement or substantial discussions with [Posey], [CAF] or any
5 other officers or agents of [CAF] related to" the publication of the mailers.²⁵ Rather, Posey
6 acknowledged in his Plea Agreement that he was aware at the time he made these statements to
7 the Commission that Stockman "personally supervised and directed" the publication and
8 distribution of the mailers.²⁶

9 With regard to the funding of the mailers, Posey's Plea Agreement sets forth that knowing
10 that CAF's activities were never intended to be independent of Stockman or his Senate
11 Committee, Posey falsely represented to a donor, Richard Uihlein,²⁷ that the mailers were
12 independent expenditures by CAF and solicited a \$450,571.65 contribution from him to fund the
13 purported independent expenditure.²⁸ Uihlein testified at Stockman's trial that, when the
14 solicitation was made, he understood that the project would be independent of Stockman and his
15 campaign:

16 [Prosecutor]: And did you understand, based on the representations made to you, that the
17 advertising would be done independently of the defendant and his
18 campaign?

19 [Uihlein]: Yes.
20

²⁵ *Id.* at 15-16.

²⁶ *Id.* at 16.

²⁷ Posey's Plea Agreement does not identify Uihlein by name, but rather as "Person B." In the Order Denying Stockman's Motion for Judgment of Acquittal, the court identifies Uihlein by name as the donor.

²⁸ Posey Plea Agreement at 14.

1 [Prosecutor]: Was that fact important to you when you wrote this check?

2 [Uihlein]: Yes, it was.

3 [Prosecutor]: If you had been told that the expenditure would, in fact, be made in
4 coordination with the defendant, would you have written this check?

5
6 [Uihlein]: No, I wouldn't.²⁹

7 On or about March 14, 2014, the direct mail company refunded approximately
8 \$214,718.51 – the unspent portion of the \$450,571.65 contribution – to CAF. Rather than return
9 this money to Uihlein, Posey used the funds to pay debts associated with Stockman's Senate
10 campaign and to finance personal expenses.³⁰

11 **III. LEGAL ANALYSIS**

12
13 The costs of printing and distributing the CAF mailer constitutes an in-kind contribution to
14 Stockman and Steve Stockman for Senate because it meets the Commission's "coordinated
15 communication"³¹ three-pronged test: (1) payment for the communication by a third party;
16 (2) satisfaction of one of the "content" standards;³² and (3) satisfaction of one of the "conduct"
17 standards.

18 The payment prong of the coordinated communication test is satisfied because the
19 available information shows that CAF, using funds obtained from Uihlein, paid to produce and

²⁹ Order Denying Motion for Judgment of Acquittal at 2-3.

³⁰ Posey Plea Agreement at 16.

³¹ See 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.21(b)(1).

³² The content standards are: (1) an electioneering communication; (2) a public communication that disseminates, distributes, or republishes, in whole or in part, a candidate's campaign materials; (3) a public communication containing express advocacy; (4) a public communication that refers to a clearly identified Federal candidate that is publicly distributed or disseminated 90 days or fewer before a primary or general election, and was directed to voters in the jurisdiction of the clearly identified candidate; and (5) a public communication containing the functional equivalent of express advocacy. 11 C.F.R. § 109.21(c)(1)-(5).

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1 distribute the mailer.³³ The content prong also appears to be satisfied because *The Conservative*
2 *News* is a public communication that clearly refers to Stockman and was publicly distributed or
3 disseminated in Stockman's jurisdiction — Texas — within 90 days of the March 4, 2014, Senate
4 primary election.³⁴

5 The conduct prong is satisfied because Stockman personally supervised the publication
6 and distribution of the mailer,³⁵ thus satisfying one or more of the following types of conduct:
7 (1) the communication was created, produced, or distributed at the request or suggestion of a
8 candidate or his campaign; (2) the candidate or his campaign was materially involved in decisions
9 regarding the communication; and (3) the communication was created, produced, or distributed
10 after substantial discussions with the campaign or its agents.³⁶ Accordingly, CAF and Jason
11 Posey made, and Steve Stockman and Steve Stockman for Senate received, in-kind contributions
12 in the form of a coordinated communication.

13 Notwithstanding the apparent violations, the criminal convictions and punishment of
14 Stockman and Posey concerning the same conduct at issue here, including restitution already
15 imposed and likely incarceration, adequately vindicates the Commission's interest with regard to

³³ See Posey Plea Agreement at 14-16; see also Order Denying Motion for Judgment of Acquittal at 2-3.

³⁴ See 11 C.F.R. § 109.21(c)(4)(i). *The Conservative News* appears to meet the definition of "public communication" because it is a newspaper or a mass mailing to the general public, as *The Conservative News* states that it "is a print version of the online Conservative News," and CAF admits that it distributed its newsletters in paper form. See 52 U.S.C. § 30101(22); 11 C.F.R. § 100.26; Posey Aff. ¶ 4. According to the Criminal Indictment, Stockman and Posey coordinated with two direct mail companies to deliver hundreds of thousands of copies to voters, indicating that the mailer was disseminated in quantities exceeding 500 pieces, thus also qualifying as a "mass mailing." See Criminal Indictment at 20; 52 U.S.C. § 30101(23); 11 C.F.R. § 100.27. Stockman was clearly identified in the mailer because photographs of him and references to his name and position as a congressman appear on each page of the mailer. Finally, *The Conservative News* itself is undated, but *The Dallas Morning News* article hyperlinking to it is dated February 24, 2014, suggesting that the mailer was disseminated in Texas around the time of the article, which was within 90 days of the Republican primary election for U.S. Senate in Texas on March 4, 2014.

³⁵ Posey Plea Agreement at 16.

³⁶ See 11 C.F.R. § 109.21(d)(1), (2), (3).

1 Respondents' apparent violations of the Act. The Commission has previously exercised its
2 prosecutorial discretion and declined to pursue matters where it determined that a related criminal
3 conviction adequately vindicated its civil enforcement interests under the Act. The Commission
4 has taken this approach in a few matters within the following parameters: the respondent pled
5 guilty or was convicted of at least one criminal count directly relating to a federal campaign
6 finance law violation; the facts in the civil matter under review relate to the count(s) to which the
7 respondent pled guilty in the criminal matter; and the respondent experienced substantial criminal
8 punishment.³⁷ By contrast, the Commission has taken further action, notwithstanding a criminal
9 conviction, when the criminal conviction or plea did not specifically vindicate the Act's discrete
10 civil enforcement interests, *i.e.*, where the criminal count(s) to which the respondent pled guilty or
11 was convicted of did not directly relate to a federal campaign finance law violation.³⁸

37

MUR 6761 (Kenneth A. Barfield) Certification (Apr. 18, 2017) (declining to pursue further action as to Kenneth Barfield after reason to believe finding that Barfield knowingly and willfully violated 52 U.S.C. §§ 30102(b), 30102(c), 30114, 30116, 30122 and 30125(e) because Barfield pleaded guilty to three criminal counts, including "Embezzlement of Funds Contributed to a Federal Candidate," was sentenced to 87 months in federal prison, and ordered to pay \$2,940,821 in restitution); MUR 7072 (Babulal Bera) Factual & Legal Analysis at 1-2 (Jan. 4, 2017) (declining to further pursue action against perpetrator of conduit scheme "among the largest [ever] considered" because Bera pleaded guilty to one criminal count each under 52 U.S.C. §§ 30116(a)(1)(A) and 30122, was sentenced to a prison term of one year and one day and supervised release for a term of 36 months, and ordered to pay a criminal fine of \$100,000, while also noting statute of limitations concerns and respondent's advanced age); MUR 6231 (Glenn Marshall) Factual & Legal Analysis at 2, 5 (Nov. 17, 2009) (declining to pursue action against Marshall, who had pleaded guilty to five criminal counts for knowing and willful violations of provisions now codified at 52 U.S.C. §§ 30118 and 30122 and was sentenced to 41 months in federal prison and ordered to pay restitution of \$467,612.62); MUR 6232 (Gladwin Gill) Factual & Legal Analysis at 1, (Nov. 17, 2009) (declining to pursue action against Gill because he had pleaded guilty to one criminal count of making contributions in the name of another and was sentenced to one year and one day in federal prison, followed by three years of supervised release, and fined \$200,100).

³⁸ See MUR 6179 (Christopher Ward) Conciliation Agreement at 1 (Feb. 14, 2011) (conciliating with respondent on knowing and willful violation of provisions now codified at §§ 30102(b)(3), (c), (d), (h)(1) and 30104(b) where respondent pleaded guilty to one count of criminal "Interstate Transportation of Stolen Property" in violation of 18 U.S.C. § 2314, rather than campaign finance violation); MUR 6980 (Samuel K. Pate, Jr.) Conciliation Agreement at 1 (Aug. 24, 2016) (conciliating with respondent on knowing and willful violation of 52 U.S.C.

1 Under the circumstances presented in this matter, we do not believe pursuing the violation
2 as to Stockman or his Senate Committee is necessary to adequately vindicate the Commission's
3 civil enforcement interests under the Act. Stockman was charged and convicted of, among other
4 offenses, aiding and abetting the making of an excessive contribution in violation of 52 U.S.C.
5 §§ 30116(a)(1)(A) and (a)(7)(B)(i) stemming from the same facts as presented in the instant
6 matter. His motion for a judgment of acquittal was denied, and he was ordered to pay \$1.2
7 million in restitution. He will also face a prison sentence which will be determined at this hearing
8 scheduled for November 7, 2018.

9 As to Posey, he pled guilty to mail fraud, wire fraud, and money laundering, the
10 underlying facts of which, as presented in the factual basis of his plea, directly relate to MUR
11 6793. He agreed to begin making restitution payments in anticipation of his restitution debt to be
12 determined at his sentencing hearing scheduled for November 20, 2018. In addition, CAF is
13 dissolved as of January 2016.³⁹ Further, Steve Stockman for Senate has been defunct since
14 October 1, 2014, when it began reporting no receipts or disbursements, no cash-on-hand, and
15 debts and obligations of \$12,675 owed to a vendor for advertising.⁴⁰

16 Under these circumstances presented, we do not believe pursuing Respondents for
17 violations in connection with the mailer is necessary to adequately vindicate the Commission's
18 civil enforcement interests under the Act. Therefore, we recommend that the Commission

§§ 30102(b)(3) and 30114 where respondent pleaded guilty to mail fraud in violation of 18 U.S.C. § 1341, rather than campaign finance violation).

³⁹ See n.12, *supra*.

⁴⁰ Steve Stockman for Senate, Year-End 2014 Report (Jan. 31, 2015); July 2018 Quarterly Report (July 7, 2018).

1 dismiss the allegations that CAF and Jason Posey made, and Steve Stockman and Steve Stockman
2 for Senate received, in-kind contributions in the form of a coordinated communication.⁴¹
3 See *Heckler v. Chaney*, 470 U.S. 821 (1985).

4 **IV. RECOMMENDATIONS**

- 5 1. Dismiss the allegations in the Complaint as to Steve Stockman for Senate and Daniel
6 Wholihan in his official capacity as treasurer, Steve Stockman, Jason Posey, and the
7 Center for the American Future, Inc.
8
9 2. Approve the attached Factual and Legal Analysis;
10
11 3. Approve the appropriate letters; and
12
13 4. Close the file.

14
15 Lisa J. Stevenson
16 Acting General Counsel

17
18
19 10/23/18
20 Date

Kathleen M. Guith
Kathleen M. Guith
Associate General Counsel for Enforcement

21
22
23
24 Mark Allen
Mark Allen
Assistant General Counsel

25
26
27
28
29 Christine Gallagher by MA
Christine C. Gallagher
Attorney

30
31
32
33 **Attachments:**

- 34 1. *The Conservative News*
35 2. Factual and Legal Analysis
36

⁴¹ The Complaint also alleged that CAF's mailer lacked the required disclaimers. See Compl. at 1. In light of the dismissal recommendation as to the coordinated communication allegation, we recommend that the Commission also dismiss the allegation that CAF and Jason Posey violated 52 U.S.C. § 30120.



The Conservative News

This is a print version of the online Conservative News, available for download at CenterForTheAmericanFuture.com

Free

Cornyn betrays Cruz, funds Obamacare



Cornyn kills Republican filibuster, votes to fund Obamacare, blasts Cruz for being 'confrontational' in chat with Democrat-leaning mag

Sen. John Cornyn's two votes to fund Obamacare sent him plunging in polls, especially after Cornyn insulted Sen. Ted Cruz.

On Sept. 27, 2013, Cornyn voted with Democrats to kill Cruz's filibuster of Obamacare funding (RCV 206) af-

ter Democrat leader Harry Reid said the vote would pass funding for Obamacare.

Cornyn's vote to kill Cruz's filibuster followed his Mar. 20, 2013 vote to fund Obamacare (RCV 44.)

Then, in July Cornyn also (See 'Backstab,' P. 2)

"I hope we'll be less confrontational."

- John Cornyn, on why he voted with Democrats to kill the Republican filibuster



Senator Ted Cruz, former Alaska Gov. Sarah Palin and Texas Congressman Steve Stockman lead the Pledge of Allegiance at a veterans' rally near the U.S. Capitol.

Cornyn bill puts many vets on gun ban list

Cornyn, Lindsay Graham push gun owner registry promoted by anti-gun Bloomberg, Brady



A gun control measure pushed by anti-gun former New York City Mayor Michael Bloomberg will be championed by Sens. John Cornyn and Lindsay Graham, Cornyn told

Texas Monthly in Jan. 2014.

Cornyn's "Mental Health and Criminal Justice Reform Act" strengthens the NICS national database on gun owners and boosts (See 'Cornyn/Bloomberg' P. 5)

"I'm not sure what the point is about open carry..

I'm not sure what the attraction is for that."

- John Cornyn on open carry

PRO-LIFERS: CORNYN VOTED TO FUND ABORTION

Pro-lifers: Cornyn's vote to fund Obamacare helps turn Planned Parenthood into \$2 billion abortion machine

Pro-life activists warn that Sen. John Cornyn's multiple votes to fund Obamacare could eventually mean \$2 billion in the pockets of the nation's largest abortion chain.

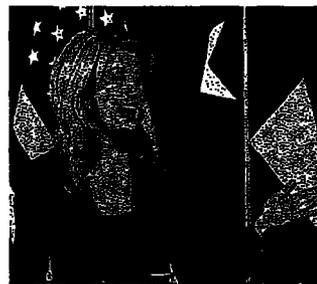
"John Cornyn voted to fund abortion. Would you have voted to fund abortion?" asked one Texas pro-life leader.

Cornyn voted twice to fund Obamacare and help establish programs that cover abortion, despite warnings from pro-life groups it meant fund-

ing for abortion providers.

"The number of abortions will soar when you and I are paying for an insurance plan that someone else couldn't afford that now has abortions. Planned Parenthood is going to be more than a \$1 billion industry. They're going to be a \$2 billion industry," say Students for Life of America.

Cornyn also voted to give Obamacare funds directly to Planned Parenthood. The group bragged about one \$375,000 grant they pocketed.



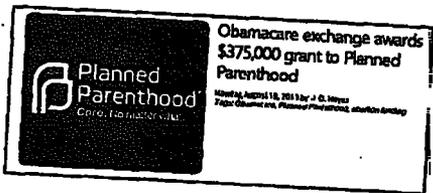
Wendy Davis for Texas for Governor

Abortion advocate Wendy Davis praised the vote to fund Obamacare.

The Vote
(2013 Roll Call Votes 44-206)



John Cornyn chats with Obama Supreme Court Justice Elena Kagan, a supporter of Planned Parenthood. Cornyn's vote to fund Obamacare means big money for the abortion group.



"When you and I are paying for an insurance plan that someone else couldn't afford that now has abortions, they're going to go up. Planned Parenthood is going to be more than a \$1 billion industry. They're going to be a \$2 billion industry." - Students for Life of America

Backstab: Cornyn sells out Cruz, GOP with vote to fund Obamacare

(Cont from 'Betray,' P. 1) publicly stripped his name from a letter from Republican senators pledging not to support Obamacare funding.

Cornyn told Texas Monthly he hoped Cruz

had "learned a lesson." "I hope we'll be less confrontational," Cornyn scolded.

Recent polls show Cornyn will not win the March 4 Republican primary and would be forced into a runoff election

with Cruz ally, Congressman Steve Stockman.

Cornyn took a parting shot at Cruz, telling Texas Monthly, "I think David Dewhurst has been a good public servant, and had he been elected, I don't

think there would have been much of a difference in the voting record."

"Cornyn's favorite trick is to vote to send Democrat bills to floor once Harry Reid has the votes to pass it. Cornyn then casts his sole 'no' vote, knowing it will pass anyway."

Cornyn caught lying to voters, voted with Democrats to raise debt limit on Feb. 12

Cornyn tells voters he opposed Feb. 12 debt limit hike, but news reports explain how Cornyn voted with Democrats to raise debt limit

Slate: Mitch McConnell and John Cornyn Vote to Raise Debt Limit (Feb. 12, 2014)

"Anyone who listened to Republican senators yesterday could tell they were unhappy to be stuck with a "clean" debt limit increase"...

It got tougher after Texas Sen. Ted Cruz, shocking absolutely no one, said he'd demand a cloture vote on the bill, one that would require every Democrat and independent and at least five Republicans to suspend the debt limit through the 2014 election...

The vote was held open for 45 minutes as Harry Reid struggled to break past 58 votes for passage. Finally, Kentucky Sen. Mitch McConnell and Texas Sen. John Cornyn arrived to vote "aye" and push the bill through."

Washington Post: Congress approves increase in debt limit (Feb. 12, 2014)

"Needing 60 votes, including at least five Republicans, the Senate remained stuck in the upper 50-vote range for an extended period, as Republicans stood debating which of them would cast the unpopular vote to reach 60.

Finally, Minority Leader Mitch McConnell (R-Ky.) and Minority Whip John Cornyn (R-Tex.) sided with the Democrats, putting them over the 60-vote threshold.

Soon after, a half dozen other Republicans joined the two leaders -- both of whom face primary challengers from their right flank who are opposed to lifting the debt ceiling."

POLITICO: Behind the scenes of a dramatic debt vote (Feb. 12, 2014)

"Sen. Ted Cruz and the GOP rank and file ultimately backed Senate Minority Leader Mitch McConnell and Minority Whip John Cornyn into a corner on the debt ceiling increase.

The leaders had wanted to allow the toxic measure to pass with just 51 votes...

...Cornyn and McConnell approached the well of the Senate and simultaneously signaled that they would vote "aye." The press gallery let out an audible gasp.

"It should have been a very easy vote," Cruz said afterward. "In my view, every Senate Republican should have stood together."

Wall Street Journal: Bill Suspends Cap on Government Borrowing (Feb. 12, 2014)

Legislation to extend the government's borrowing authority cleared Congress on Wednesday, ending a laborious debate that exposed divisions among Republicans, and putting the debt-limit fight to rest for more than a year...

...But the bill passed the Senate only after a dramatic and prolonged preliminary vote that saw a phalanx of reluctant GOP leaders—including Minority Leader Mitch McConnell (R., Ky.)—vote to rescue the bill from defeat....

...After Mr. McConnell voted for it, other Republican leaders fell in line, including Senate Republican Whip John Cornyn of Texas.

Amnesty backers invade primary to back Cornyn

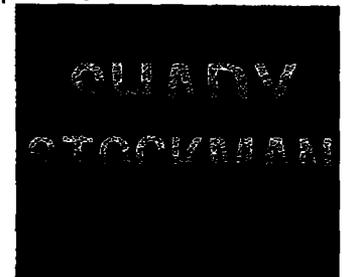
Cornyn camp running anti-Ted Cruz PAC that now smears Stockman using a \$2 million check from an illegal alien amnesty advocate

An advocate for illegal alien amnesty is behind a \$2 million "Shady Stockman" smear campaign that falsifies the voting financial records of Con-

gressman Steve Stockman. The PAC, run by a Democrat donor, reported accepting a \$2 million check from Robert Perry, a personal friend of

Cornyn known for backing pro-amnesty candidates.

The group has drawn criticism from Republicans for falsifying Stockman's voting and financial records.



Cornyn supporters are running dirty ads smearing Rep. Steve Stockman, using a \$2 million check from an illegal alien amnesty advocate and the same operatives Cornyn used to attack Ted Cruz.

CORNYN MANEUVERS TO HELP REID

PASS ILLEGAL ALIEN AMNESTY

Cornyn voted to bring amnesty to floor knowing it would pass, killed GOP attempt to block vote

“Senator Reid has always felt that Senator Cornyn is someone he can work with on a range of issues.”

- Sen. Harry Reid
spokesman Adam Jentleson

Texas Republicans are demanding Sen. John Cornyn explain why he worked with Democrat leader Harry Reid to pass amnesty for illegal aliens.

The Cornyn-passed amnesty plan was eventually blocked in the House by Texas Congressman Steve

Stockman’s “blue slip” resolution. Cornyn faces Stockman in a Mar. 4 Republican primary, which polls show Cornyn will not win.

On June 11, 2013 Cornyn voted with Democrats to kill a Republican filibuster of Reid’s amnesty plan after Reid assured

him Democrats had the votes to pass it. (RCV 146)

After thwarting Republicans, Cornyn then voted with Democrats to proceed to a vote to pass the plan (RCV 147.)

Cornyn’s vote to kill the Republican filibuster outraged conservatives.

The Votes
2013 Roll Call Votes 146-147

Cornyn voted to give amnesty visas to illegal aliens

Millions spent on pro-Cornyn ads after he votes to kill GOP plan to stop amnesty

Sen. John Cornyn voted with Democrats to give amnesty visas to illegal aliens, and amnesty advocates have rewarded Cornyn with millions in campaign cash.

Cornyn voted with Democrats to kill a Republican amendment to end the “Z Visa” program (Vitter Amdt. No. 1157 to S1348 5/24/2007.) Z visas are awarded to illegal aliens and allow them to work and travel freely.

Cornyn has been richly rewarded for his support for amnesty.

Robert Perry, a promi-



nent backer of amnesty for illegal aliens, gave a \$2 million check which is being spent to run “Shady Stockman” attacks on Congressman Steve Stockman, whom Perry wanted defeated for Stockman’s opposition to amnesty.

The Vote: Vitter Amdt. No. 1157 to S1348 5/24/2007

Why is John Cornyn giving Social Security numbers to illegals?

Not only is Obamacare funded with \$717 billion taken from Medicare, John Cornyn’s S1348 (2005) would have given illegal aliens their own Social Security numbers.

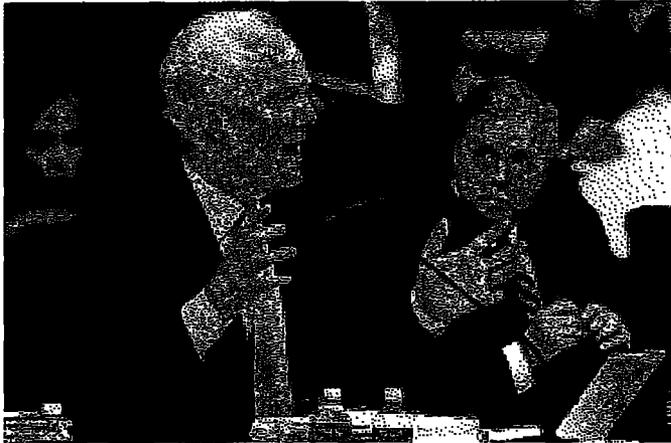
Why is John Cornyn offering his own S. 1348 plan to extend Social Security programs to illegals?

Free benefits for illegals that senior citizens pay for.

Ask Cornyn about his plan to extend Social Security to illegals.

Cornyn, Lindsay Graham to introduce gun owner registry bill pushed by Bloomberg

Cornyn/Bloomberg plan could strip veterans of gun rights if they have gone through post-combat counseling



(Cont from 'Vets,' P.1)

government funding for gun control programs.

Anti-gun activists like Bloomberg have promised campaign funding to senators who back the measure. A bill number has not yet been assigned.

Gun groups like the National Association for Gun Rights and Gun Owners of America oppose the bill and

have endorsed Cornyn's opponent, Congressman Steve Stockman, who has a 100% lifetime NRA rating.

Veterans groups also oppose it, as it could ban guns for vets who had or seek post-combat counseling.

Cornyn then took aim at other gun laws. "I'm not sure what the point is about open carry...I'm not sure what the attraction is for that."

The Bill: The Graham-Cornyn Mental Health and Criminal Justice Reform Act (Bill number not yet assigned)

Cornyn backs Obama plan to track Americans' phones

After trying to stop Rand Paul's election, Cornyn now backs Obama's spy plans

Sen. John Cornyn has come out in support of government spying on American citizens in an interview with liberal National Public Radio.

Cornyn trumpeted his support of presidential spy programs, claiming Texans are "willing to make some concessions in terms of their personal privacy."

Cornyn has been a leader for Obama's spying programs in Congress, voting to reauthorize or expand programs to allow Obama to monitor Americans' phone activity.

"(Texans) are willing to make some concessions in terms of their personal privacy. - John Cornyn, on why he supports spying on Americans

The Votes
(2011-S990, 2011-S1038, 2011-HR514) (2012-SAmDt1018, 2011-HR1540, 2011-SAmDt1125, 2011-SAmDt1126, 2011-SAmDt1274, 2011-S990, 2011-S1038, 2011-HR514)

CORNYN BLASTS OPEN CARRY LAW

Cornyn joins Wendy Davis in questioning open carry in interview with Democrat-leaning "Texas Monthly"

Texas Republicans are outraged over Sen. John Cornyn's recent attacks on open carry laws in a Jan. 2014 gossip session with Texas Monthly.

"I'm not sure what the point is about open carry...I'm not sure what the attraction is for that," said Cornyn.

Cornyn was promoting his bill to expand background checks on law-abiding gun owners.

"I'm not sure what the point is about open carry...I'm not sure what the attraction is for that."

- John Cornyn on open carry



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COMMON CORE CHAMPS PRAISE CORNYN



Sen. John Cornyn goes on MSNBC to find support for his views.

Pro-Common Core teacher unions are urging their members to keep Sen. John Cornyn and defeat Congressman Steve Stockman. "We can move John Cornyn in a way we'd never

"We can move John Cornyn in a way we'd never be able to move Steve Stockman."

- American Federation of Teachers, which is pushing politicians to implement Common Core in Texas

be able to move Steve Stockman," warned the American Federation of Teachers.

AFT spent \$130 million in 2012 electing pro-Common Core candidates. The group has not revealed if they are funding Cornyn.

Cornyn may face Senate ethics probe

Straight out of Alinsky: Cornyn committed the ethics violations he accuses opponent of

False claims against Sen. John Cornyn's Republican opponent appear to be a coordinated effort to deflect any potential Senate ethics investigation of Cornyn himself.

Investigators plan to forward to the Senate Ethics Committee evidence Cornyn used his official Senate office to send political campaign communications on Dec 15, 2013.

Cornyn also confessed he failed to fully document personal income as required by law.

Cornyn's camp is now behind a \$2 million smear campaign against Congressman Steve Stockman, funded by an illegal alien advocate.

The attacks, which falsified Stockman's record, are part of an effort to defeat conservative Republicans.

Cornyn votes to advance Obama nomination of pro-abortion, 'Jesus' banning judge

Cornyn outrages pro-life community with vote to kill GOP filibuster of pro-abortion, anti-prayer ACORN ally nominated by Obama

A liberal judge who banned prayers mentioning Jesus, but allowed prayers mentioning Allah, was named to the federal courts after Sen. John Cornyn voted to advance his nomination.

Cornyn voted with Democrats to block Republican opposition to Judge David G. Hamilton (2009 RCV 349.)

"Hamilton ruled that it was a violation of the First Amendment's Establishment Clause for the Indiana House of Representa-

tives to invoke the name of Jesus Christ during prayer, yet it does not violate the Constitution to invoke the name of Allah," warned the Heritage Foundation.

Cornyn voted to advance Hamilton's nomination despite being also warned Hamilton "requested clemency for a 32-year old police officer who pled guilty to two counts of producing child pornography after videotaping his 'consensual' sexual activities with two teenagers."

"As a District Court judge, Hamilton promoted his radical pro-abortion agenda." His promotion to the Seventh Circuit is a "serious concern to the pro-life community."

- Americans United for Life

"Judge Hamilton is the definition of an activist judge and is clearly not qualified to sit on a court of appeals."

- Senator Jim DeMint

The Vote: (2009 Roll Call Vote 349)
Motion to Invoke Cloture on the Nomination of David Hamilton to the 7th Circuit Court of Appeals

REPUBLICANS BLAST CORNYN'S VOTE FOR TARP, OBAMA'S \$2 BILLION TAX HIKE



**"John Cornyn has voted to increase the debt, raise taxes, bail out Wall Street banks, and fund Obamacare. He's part of the problem in Washington and voters deserve an alternative."
- Senate Conservatives Fund's Matt Hoskins**

Republicans are hammering Sen. John Cornyn's vote with Democrats for President Barack Obama's \$2 billion tax hike (2012 RCV 251) and to allow Obama to raise the debt ceiling.

"John Cornyn has voted to increase the debt and radically expand spending. Would you have voted to expand Obama's spending?"

In all, Cornyn has voted to raise the debt ceiling eight times, according to

the Congressional Record (Congress.gov.)

Cornyn also voted twice for the TARP bailout of banks (2008 RCVs 96, 213.)

Cornyn also voted with Democrats for Obama's plan to hand out taxpayer-funded mortgages as a "stimulus" (2009 RCV 48.)

"It's no wonder that John Cornyn tried to defeat Ted Cruz and elect David Dewhurst. His record on spending means he can't afford to let Texans see what a real conservative looks like."

The Votes: 2012 Roll Call Vote 251, 2009 Roll Call Vote 48, 2008 Roll Call Votes 96 & 213

FACT CHECKER

Cornyn's 'Second Most Conservative' senator claim debunked

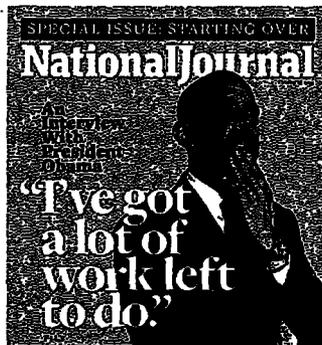
Rating came from liberal D.C. magazine, which often attacks Ted Cruz

Texas are mocking Sen. John Cornyn's oft-repeated claim he is "the second most conservative U.S. Senator" after learning it came from a liberal D.C. magazine that routinely attacks Ted Cruz and the Tea Party.

The rankings were compiled by liberal "National Journal."

The magazine earlier named Sen. John McCain "the most conservative Senator," which appears to put Cornyn in the position of claiming he is less conservative than John McCain.

The magazine routinely gives its "conservative" ratings to liberal Republicans.



Cornyn's claim to be the "second most conservative" came from a trendy D.C. magazine that attacks Republicans.

Pro-gun groups back Stockman

National pro-gun groups like the National Association for Gun Rights and Gun Owners of America are backing Congressman Steve Stockman in the March 4 Republican primary for U.S. Senate.

Stockman has introduced many pro-gun bills nullifying Obama's Executive Orders, blocking any anti-gun UN treaty, protecting the rights of veterans to own guns and ending the Clinton gun ban on military bases.

"Congressman Stockman is a legislative street-fighting man who stands solidly for our sacred Second Amendment."

- Ted Nugent

CORNYN CONFESSES TO FALSIFYING ETHICS REPORTS TO HIDE INCOME

Sen. John Cornyn has confessed to falsifying his ethics reports for four years to hide tens of thousands of dollars he has been collecting in three different taxpayer-funded retirement pensions, while still serving in the Senate.

Cornyn reported pocketing \$65,383 in retirement benefits last year, including a large pension he previously hid from the Ethics Committee. "In a series of financial-disclosure amendments that he be-

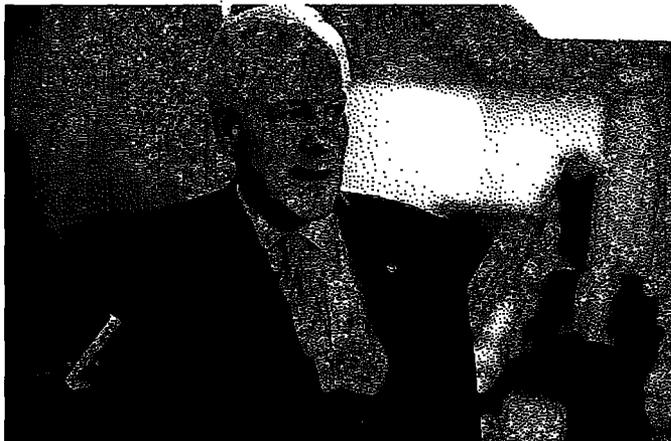
gan filing last July, Cornyn disclosed that he had actually been collecting that \$10,132 annual pension as far back as 2006. He had not listed it on his original disclosure reports from 2006 to 2010," National Journal reports.

Cornyn may now face a Senate Ethics Committee investigation into his falsification of income reports.

Cornyn is also facing charges he used his official Senate office to broadcast campaign communications.



FEC TAGS CORNYN ON OVER 121 COUNTS OF PHONY DONOR INFO



Sen. John Cornyn has filed false donor reports at least 121 times, Federal Election Commission records reveal.

The stunning magnitude of false reports, which hid donor information from the public, has prompted watchdogs to urge Cornyn to comply with any FEC or criminal investigation of his campaign.

The revelation comes after

an advocate of illegal alien amnesty wrote a \$2 million check to a former Cornyn staffer to coordinate false ads against Congressman Steve Stockman.

That has prompted an investigation into illegal coordination between Cornyn and the pro-Cornyn super PAC, as well as charges the Cornyn super PAC illegally used court documents and falsified voting records.

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Reasor: Let's fix our inner cities

Inner city decay is mostly caused by four main government issues:

1. Educational failure, 55% of most all city kids drop out of high school (teachers are NOT the problem; they are so frustrated that 50% of every new teacher quits in five years. Research says they are over worked, banned from doing what they really want to do and trained to do and that is teach their kids. The current educational system hurts their efforts.

2. Limited or no high paying jobs the radical EPA is killing industry jobs. (Industry was our artisan and apprentice vocational high paying jobs in and around the cities. Our U.S. cities were founded and most are still are hubs of industrial activity. Losing control of these industry jobs overseas has caused us to lose control over the emissions, and even caused more pollution).

3. No ability to own the means of wealth, home or land (taxation and property taxes continue to make ownership further out of reach. People are taxed out of their homes in the cities. The number one reason for higher taxes is ... our failed education).

4. Punishment from the government if you try to work yourself off the assistance (in most cases earning just over \$950.00 in any month and they lose most all support).

We have gone from first in the world in the 1960's to worst in the world while spending the most. The more we spend, and the harder we try, the lower we perform.

Most EdD's truly have no idea how to solve this problem, they do not understand what caused this; control caused this. It needs to change, we need to first admit the problem, get past the propaganda and move forward into prosperity.

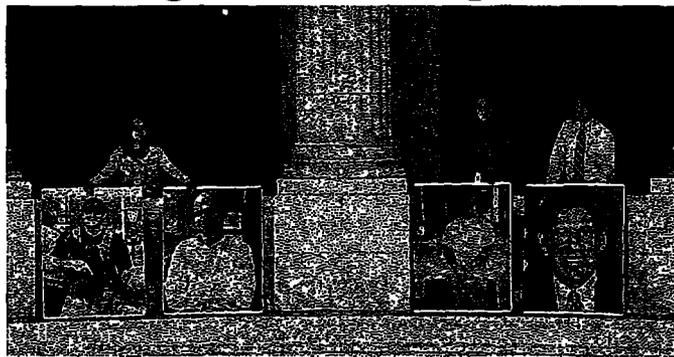
We stand for liberty, integrity and prosperity.

Cleaver: Let's reform education

Returning the oversight of Education to the state and local level not only eliminates money from the federal budget, it also gives the power back to the local governing authorities and enables the teachers themselves to have more control in the classroom.

Teachers today are severely limited due to constraints to achieve to a certain standard as well as prevented from allowing creativity in the classroom. Children are held to strict standards and not allowed to learn in a way that expands their creativity and their imagination. The basics are no longer taught, but they are limited to systems and structures driven by strict governmental standards.

Stockman seeks to force full Benghazi investigation



Capitol Police tried to ban Stockman staff from displaying these photos of Benghazi's victims outside a House Foreign Affairs Committee hearing on the terrorist attack.

Congressman Steve Stockman (R-TX 36) is seeking to force a vote in Congress on creating a select committee to investigate the Obama administration's handling of the Sept. 11, 2012 terrorist attack on the U.S. consulate in Benghazi, Libya.

Following the cancellation of a House hearing on the Benghazi attacks, Rep. Stockman filed a discharge petition to force a vote on Rep. Frank Wolf's H. Res. 36, which would establish a Select Committee to investigate the Benghazi attacks.

"Congressman Wolf has fearlessly led the fight for justice on this issue. The whole nation owes Congressman Wolf a deep debt of gratitude. Some House Democrats now appear to be openly interfering with the investigation and in-

timidating witnesses, which only raises more questions about the White House's involvement," said Stockman. "The only way we're going to get a clean and thorough investigation is by forcing a vote with a discharge petition."

The House Foreign Affairs Committee, of which Rep. Stockman is a member, had originally scheduled a hearing, entitled "Benghazi: Progress on State Department Accountability." The hearing was canceled after the witnesses names were leaked.

According to Rep. Wolf, a Select Committee is the only way to effectively conduct an investigation the attacks.

If 218 House members, a majority of the chamber, sign the discharge petition H. Res. 36 would be recalled from committee and considered on the floor.

A discharge petition is a procedural maneuver that, if a majority of the House sign their names, would immediately bring a bill out of its assigned committee and to the floor for a vote.

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STOCKMAN DEMANDS ANSWERS ON COMMON CORE CONTROVERSY

Steadfastly opposed to federal bureaucrats rewriting education and student privacy policies without congressional approval, Rep. Steve Stockman (R-Texas 36) signed on to a letter authored by Rep. Blaine Luetkemeyer (R-MO 3) to Education Secretary Arne Duncan demanding information regarding the implementation of these new policies and the authority under which the Education Department has acted.

Dating back to the 1960s, Congress has authorized and allocated funding for K-12 education policy

through the Elementary and Secondary Education Act (ESEA) – the primary vehicle for education reform on the federal level. The letter notes since ESEA's most recent expiration the Education Department has, without any Congressional input, moved forward with Common Core standards by enticing states with grants and waivers to adopt Common Core standards.

"Since the ESEA's expiration, the Department of Education has moved forward with education policy reform without Congressio-

nal input. Such action is, at best, in contravention with precedent," read the letter signed by Stockman and 33 other members of the House of Representatives. "We believe that state-based education policies are vital to the successful education of a child. As with most one-size-fits-all policies, Common Core standards fail to address the specific needs of our states."

The letter also addresses two changes in which the government collects and distributes student data. Members of Congress request a detailed description

of each change to student privacy policy that has been made during Duncan's tenure and the need and intended purpose for such changes. Of particular concern were regulatory changes made without congressional review limiting parental access to student education records and limiting third party disclosure of that information.

"We also request that you submit to us the authority under which the Department has implemented Common Core and altered policies on student policy" the letter asks.

STOCKMAN: AUDIT THE FED

...Congressman Steve Stockman (R-Texas) introduced Jan. 9, 2013 "The Audit The Fed Act" which would require an audit of the Federal Reserve.

..."The Federal Reserve is too big to be allowed to operate in secrecy. Congress has a right to know how the Fed operates and where the money is going. The Constitution clearly gives Congress the authority to regulate our

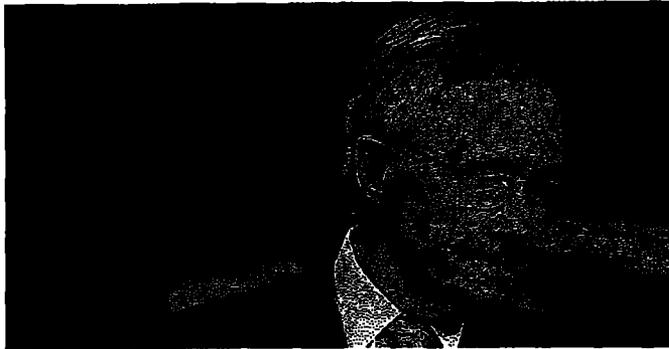
monetary system, yet we are not allowed to even see the books. An audit of the Federal Reserve is a first step toward restoring our Constitutional Republic," said Stockman.

...An "Audit The Fed" bill previously sponsored by Rep. Ron Paul (R-Texas) passed the House 327-98 in July 2012. A Rasmussen poll shows 80 percent of Americans support it.

...The bill is HR 33.



Stockman kills Senate gun control bill with 'blue slip' manuever



Senate Majority Leader Harry Reid's gun control victory was turned into defeat by Congressman Steve Stockman, who stopped the bill dead with his blue slip resolution.

Where do they stand on your gun rights?

STOCKMAN:

Filed blue slip resoluton that killed Senate anti-gun bill, as its expansion of NICS federal background check mandate constitutes a tax.

CORNYN:

Teaming up with Sen. Lindsay Graham expand background checks on law-abiding gun owners. Questions your need for open carry.

Senate Majority Leader Harry Reid halted action on a sweeping new anti-gun bill, after Congressman Steve Stockman announced he would automatically kill it in the House using a "blue slip."

Sen. John Cornyn was silent on the matter.

"The Democrat gun ban is dead on arrival. I will introduce in the House a blue slip resolution that will automatically kill the Senate gun ban," said Stockman. "Not only are Democrats on the wrong side of public opinion, they are on the wrong side of the Constitution. You can't strip Americans of their gun rights, and you certainly can't do it by having the Senate create a national tax on firearms. They are in violation of constitutional limits on federal power."

A "blue slip" is a resolution that automatically returns to the Senate any bill that violates the "origination clause" of the United States Constitution. The origination clause states "All Bills for raising Revenue shall originate in the House of Representatives."

Blue slip resolutions are immediately considered as a matter of constitutional privilege, are debatable for an hour and are not subject to

amendment.

Senate Democrats took three anti-gun bills (S. 374, S. 54 and S. 146) and quickly rammed them through the Judiciary Committee without even a committee report, then combined them into one bill (S. 649.) The bill includes language mandating a fee for background checks for all private transfers of firearms. Similar legislation has been construed by the Supreme Court to be a tax.

By introducing a bill imposing a new tax through the Senate, Democrats have violated constitutional mandates and the bill is automatically invalid.

According to The Heritage Foundation, S.649 imposes a new tax by forcing individuals to pay for background checks when selling or giving away a firearm.

The mandate to use the National Instant Criminal Background Check System does not provide a service to the buyer or seller but to the government, making it a tax.

Additionally, the Supreme Court ruled last year in NFIB v. Sebelius that mandating citizens to pay for a service can be construed to be a tax, with Chief Justice John Roberts writing the majority opinion expanding the federal definition of a tax.

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STOCKMAN'S SANCTITY OF LIFE ACT OVERTURNS ROE V. WADE

Cornyn voted to funnel Obamacare funds to Planned Parenthood

Congressman Steve Stockman re-introduced his Sanctity of Life Act in a July 17 event.

Stockman was the original sponsor of the bill in 1995, which would overturn Roe v. Wade by formally declaring life begins at conception. In its Roe v. Wade ruling the Court stated such a bill would invalidate their infamous 1973 decision.

Stockman: Sanctity of Life Act 'landmark achievement'

"Government has one responsibility and that is to protect the individual right to life and property. The right to life is the most basic and inalienable of all human rights and decades of scientific progress continue to prove life begins at conception," said Stockman. "Passage of a Sanctity of Life Act would be a landmark achievement for civil and human rights in the United States," said Stockman.

"The right to life is a basic human right. It is not negotiable or violable. Sadly, our government has

a history of treating entire classes of people with indifference and outright brutality. We pray the horrors of abortion will be the final time our federal government sanctions and enshrines in law the dehumanization and brutal treatment of defenseless people," said Stockman.

Bill to overturn Roe v Wade was first introduced by Stockman in 1995

"Since that terrible day in 1973, over 55 million children have died in abortion clinics. 55 million Americans dead, more deaths than in all U.S. wars combined," said Stockman.

"But the tide is turning. Support for abortion is dwindling as science proves human life begins at conception. More Americans than ever consider themselves pro-life. We are winning. But we are still a long way from total victory over abortion."

"That is why we in Congress are fighting to defund Planned Parenthood, pass laws overturning ObamaCare, laws banning the interstate trafficking of



Pro-life groups are backing Stockman's Sanctity of Life Act.

minors for an abortion, and pass a constitutional amendment overturning Roe v. Wade and recognizing the scientific fact human life begins at conception," said Stockman.

Stockman, staff engage in 40 Days for Life

Stockman and his staff also engaged in 40 days of prayer in 2013 to end abortions at the "Whole Woman's Health" facility in Beaumont.

The facility closed several months later.

"The right to life is the great civil rights struggle of our age. An innocent person's right to life cannot be violated under any circumstance," said Stock-

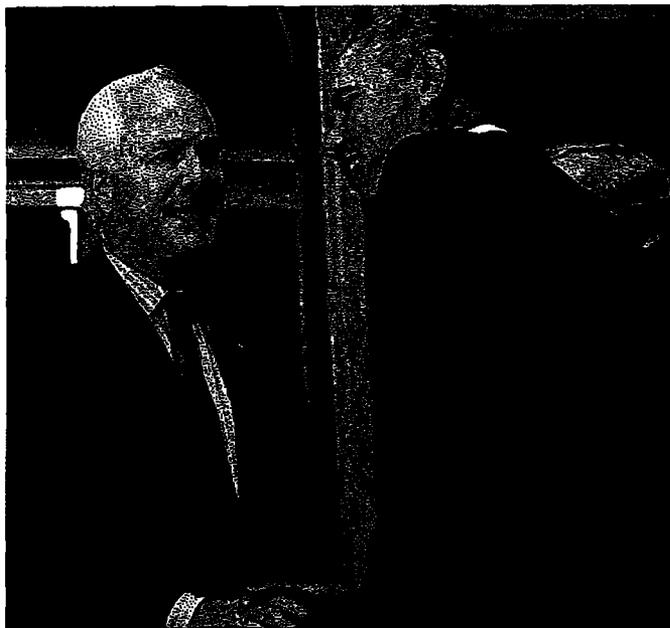
man. "We hope 40 days of peaceful, intercessory prayer will change hearts and end the tragedy of abortion. Even if it saves one life, it is worth it."

"One way to stop abortion is through an outreach of love and an effort to legally change laws. Praying to end abortion at the Beaumont facility was one way to help out," said Stockman. "You can do it from your home, your truck or your church."

The prayer effort was inspired by the "40 Days For Life" movement, which encourages Christians to pray to end abortion.

Stockman is also a cosponsor of H.R. 61 and H.R. 217, which cut off Title X funds to abortion clinics.

STOCKMAN BILL STOPS OBAMA EXECUTIVE ORDERS, UN GUN BAN



Sen. John Cornyn is introducing an anti-gun bill that would make Obama's Executive Order a federal law. Rep. Steve Stockman and Sen. Rand Paul have introduced legislation blocking any Obama order that violates the Constitution.

U.S. Congressman Steve Stockman has introduced the "Restore The Constitution Act." It is the House companion to Sen. Rand Paul's "Separation of Powers Restoration and Second Amendment Protection Act." Stockman and Paul are working together on the joint effort.

"I promised to thwart Obama's unlawful orders, first by seeking to block, overturn and defund any action that violates the Constitution," said Stock-

man. "Promise made, promise kept. No matter his intentions, the Constitution flatly prohibits the President from just making up his own laws."

"The Orders issued by President Obama are not intended to execute laws passed by the Congress. President Obama is abusing his authority to write his own unaccountable laws. Regardless of your position on gun rights, Congress has an obligation to assert its constitutional authority

as the only lawful rulemaking body," said Stockman.

If passed, the Restore The Constitution Act would declare any past, present or future executive action that infringes on the powers and duties of Congress in Article I, Section 8 of the Constitution, or the Second Amendment to the Constitution or that would require the expenditure of federal funds not specifically appropriated for the purpose of executive action, is advisory only and has no force or effect unless enacted by law.

"Executive action" includes any Executive order, memoranda, proclamation or signing statement. Any executive action in violation can be challenged in federal court by any member of the U.S. House or Senate, the highest-ranking official of any state or political subdivision or their designee, or any person deprived of liberty or property by an executive action.

Stockman also fighting UN gun ban

Stockman is also fighting the recent United Nations gun ban.

"The right to keep and bear arms is a natural right and protected from

government aggression by the Constitution. It is not subject to the whims of global totalitarians massed in New York City," said Stockman. "I oppose any UN treaty touching the right to keep and bear arms. It's beyond time for the United States to withdraw from the UN."

Stockman, Rand Paul would end White House gun grabs

Stockman and 130 members of Congress sent a letter to Secretary of State John Kerry stating their opposition. It declares Stockman's opposition to "both the ratification of the Arms Trade Treaty and any effort to treat it as internationally or domestically binding upon the United States."

The text of the UN treaty requires nations that sign on to it to record and track all guns and gun owners in their country, and submit the list to the "international secretariat." It would also require signing nations to ban many common types of hunting rifles.

Obama has announced he will sign it and pressure the United States Senate to approve it for enforcement in the U.S.

REPUBLICANS: CORNYN LED PLOT TO BACKSTAB TED CRUZ

GOP staff: Cornyn 'leading the fight to fully fund Obamacare'

"Senate Minority Leader Mitch McConnell and Senate Minority Whip John Cornyn are using their leadership positions to pressure other Republicans to oppose Sen. Ted Cruz (R-TX) in his campaign to defund Obamacare," conservative news source Breitbart reported Sept. 23.

"Right now in the Senate, Mitch McConnell and John Cornyn are actively whipping Senators to shut down debate on the House continuing resolution so that Harry Reid can gut it with just 51 votes," a senior congressional staffer with intimate knowledge told Breitbart News. "Unbelievably, they actually are leading the fight to fully fund Obamacare."

Cornyn led scheme to stop Cruz, fund Obamacare

"McConnell and Cornyn stated earlier Monday that they oppose a possible filibuster from Cruz to keep Reid from adding language funding the Affordable Care Act to the continuing resolution passed by the House of Representa-

tives," Breitbart reported.

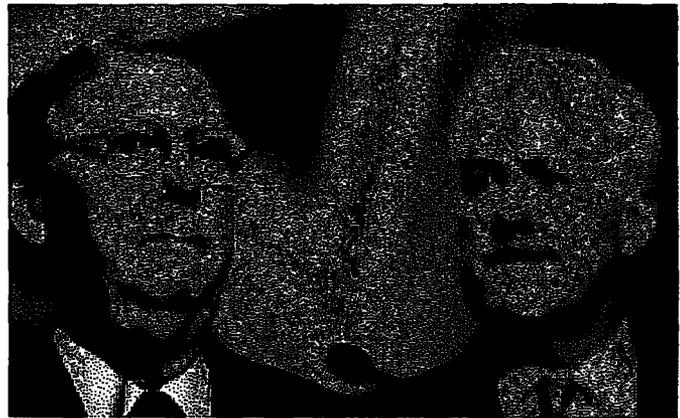
"Instead of helping Cruz with their power as Senate GOP leaders, McConnell and Cornyn are working against him" Breitbart reported.

Cornyn votes to pass Obamacare before casting symbolic vote against it

"But in the end, they will try to make it appear as though they do not support funding Obamacare by voting against Reid's amendment after allowing Reid to implement it. Once it's a 51-vote threshold, both McConnell and Cornyn will hide behind a 'no' vote on Reid's amendment—so they will have yet another show vote," the staffer said.

'Nobody is fighting harder to make sure Obamacare is funded.' than John Cornyn

"To be clear, nobody is fighting harder to make sure Obamacare is funded than Mitch McConnell and John Cornyn," the senior staffer added, Breitbart reports.



"Source: McConnell, Cornyn Whipping Votes Against Ted Cruz" Breitbart News, Sept. 23, 2012

Breitbart News reported John Cornyn used his "leadership position to pressure other Republicans to oppose Sen. Ted Cruz (R-TX) in his campaign to defund Obamacare."

Republican Senate staff tell Breitbart John Cornyn us "leading the fight to fully fund Obamacare...Nobody is fighting harder to make sure Obamacare is funded" than John Cornyn, Republicans report.

STOCKMAN KILLS CORNYN-BACKED SENATE AMNESTY BILL

Cornyn votes with Democrats to kill GOP filibuster of amnesty bill, Stockman kills amnesty bill in House with "blue slip," angry Cornyn demands GOP pass amnesty



John Cornyn served up amnesty, voting with Democrats to kill a GOP filibuster of Obama's amnesty plan. That's when Congressman Steve Stockman killed the amnesty bill by filing a "blue slip" resolution blocking it in the House with a procedural move.

Cornyn: Republicans should back amnesty

Sen. John Cornyn, who previously offered his own bill (S1348, 2005) granting illegals amnesty, work documents and a Social Security number, demanded GOP Senators support legislation giving millions of illegals a shortcut to citizenship, welfare and voter registration.

"We can win in 2014 without resolving it. We can't win in 2016 without resolving it," Cornyn told National Journal of the Senate amnesty bill.

Rep. Steve Stockman opposes Cornyn's plan.

U.S. Congressman Steve Stockman killed an amnesty bill backed by Sen. John Cornyn June 27, just moments after it passed the Senate by filing a "blue slip" resolution blocking it in the House.

Cornyn voted with Democrats to kill a GOP filibuster so amnesty could become law. Cornyn introduced his own bill, S1348 (2005,) giving illegals amnesty, work documents, and a Social Security number.

A blue slip is a resolution that automatically returns to the Senate any bill that violates the "origination clause" of the United States Constitution. The origination clause states "All Bills for raising Revenue shall originate in the House of Representatives."

Senate Majority Leader Harry Reid admitted defeat, refusing to transmit the bill to the House in a crushing blow to amnesty advocates.

"Even Harry Reid now admits the Senate's amnesty bill is unconstitutional and cannot become law," said Stockman. "The Senate Democrats were so hell-bent on ram-

ming through a gift to radical political activists they didn't bother to check if it was even legal."

"They got caught trying to sneak an illegal bill past the Constitution's borders," said Stockman.

Blue slip resolutions are immediately considered as a matter of constitutional privilege, are debatable for an hour and are not subject to amendment.

Section 2102 of the amnesty bill requires the payment of certain taxes and forgives the payment of other taxes as a condition of receiving amnesty and other benefits.

The Congressional Budget Office analysis of S. 744, dated June 18, 2013, on page 44 states, in part, that "enacting S. 744 would have a wide range of effects on federal revenues, including changes in collections of income and payroll taxes, certain visa fees that are classified as revenues, and various fines and penalties. Taken together, those effects would increase revenues by \$459 billion over the 2014-2023 period, according to estimates by JCT and CBO."

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The Texas Conservative News Scorecard:

Where are they on the issues?



Congressman Steve Stockman



Senator John Cornyn

<p>Did you vote against funding Obamacare?</p>	<p>YES. Stockman has voted for every bill to defund or repeal Obamacare.</p>	<p>NO. Cornyn twice voted with Democrats to fund Obamacare. (2013 RCVs 44 & 206) Cornyn told a liberal magazine he voted to kill Ted Cruz's filibuster of Obamacare funding because Cruz was too "confrontational" with Obama (Texas Monthly, Jan. 2014)</p>
<p>Did you vote to protect Texas borders?</p>	<p>YES. Stockman has a 100% lifetime border security rating. Stockman is the original sponsor of the bill to end automatic citizenship to "anchor babies" of illegal aliens.</p>	<p>NO. Cornyn twice voted for Obama's amnesty bill. (2013 RCVs 146 & 147.) Cornyn voted with Democrats to kill the border fence (2006 RCV 200.) Cornyn voted to give amnesty visas to illegal aliens (2007 RCV 180.) Cornyn introduced his own bill creating an amnesty program (2005, S1438)</p>
<p>Do you support the Second Amendment, as written by the Founding Fathers?</p>	<p>YES. Stockman has a 100% lifetime NRA rating and is endorsed by Gunowners of America and the National Association for Gun Rights. Stockman and Rand Paul have introduced bills to block Obama's anti-gun Executive Orders.</p>	<p>NO. Cornyn will introduce a bill called for by anti-gun groups to expand federal gun control programs and the national gun owner registration database (Texas Monthly, Jan. 2104) Cornyn voted to give automatic Senate approval to Obama's anti-gun federal appointees (2011 RCV 161.)</p>
<p>Do you oppose raising the debt limit?</p>	<p>YES. Stockman has voted against every single measure to raise the debt limit. Stockman has a 100% lifetime fiscal conservative record and was named "The Taxpayer's Best Friend" by The National Taxpayer's Union.</p>	<p>NO. Cornyn voted on Feb. 12, 2014 to completely suspend all limits on Obama's power to create debt. (2014 RCV 33.) Cornyn then lied about it to voters. Cornyn voted to raise the debt limit eight times before this vote, and has voted three times in two years against balancing the budget.</p>

John Cornyn voted twice to fund Obamacare.

(2013 RCVs 44 & 206)



Would you have voted to fund Obamacare?

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

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RESPONDENTS: Steve Stockman for Senate and Daniel J. Wholihan MUR 6793
in his official capacity as treasurer
Steve Stockman
The Center for the American Future, Inc.
Jason Posey

I. INTRODUCTION

The Complaint alleges that then-Congressman Steve Stockman impermissibly coordinated with the Center for the American Future, Inc. (“CAF”), a 501(c)(4) organization, on a mailer expressly advocating Stockman’s election to the Senate in 2014, and that the mailer lacked the requisite disclaimer, in violation of the Federal Election Campaign Act of 1971, as amended (the “Act”). According to the Complaint, Stockman coordinated with the founder of CAF, Jason Posey, who had previously served as treasurer of Stockman’s Senate committee, Steve Stockman for Senate and Daniel Wholihan in his official capacity as treasurer (“Committee”).¹ Respondents denied the allegations, supported by Posey’s sworn affidavit.

A subsequent criminal indictment in the U.S. District Court for the Southern District of Texas against Steve Stockman and Jason Posey that revealed additional facts about the mailer that is the subject of MUR 6793. The indictment alleged, *inter alia*, that the mailer was coordinated between Stockman, the Committee, Posey, and CAF, and that Posey falsely stated in his affidavit filed with the Commission that no such coordination occurred.² Stockman and Posey were charged with knowingly and willfully making and causing to make excessive contributions to

¹ Compl. at 1-2 (Mar. 7, 2014).

² MUR 6793 Memorandum to the Commission (Apr. 7, 2017); First Superseding Indictment, *United States v. Stephen E. Stockman, Jason T. Posey*, 4:17-CR-116 (S.D. Tex. Mar. 28, 2017) (“Criminal Indictment”); Complaint, *United States v. Stephen E. Stockman*, H17-0331M (S.D. Tex. Mar. 17, 2017).

1 Stockman's Senate Committee in violation of 52 U.S.C. §§ 30116(a)(1)(A) and (a)(7)(B)(i),
2 among other violations. Posey was charged with falsification of records in a federal investigation
3 for the false affidavit filed with the Commission.³

4 Following the criminal indictment, Posey pled guilty to mail fraud, wire fraud, and money
5 laundering.⁴ On July 31, 2018, Posey, as part of his plea agreement, and based on his financial
6 circumstances, agreed to make payments of \$200 a month beginning August 1, 2018, and
7 continuing until he is incarcerated, in anticipation of his restitution debt for mail and wire fraud
8 and money laundering, which amount is yet to be determined by the court.⁵ Posey's sentencing
9 hearing is scheduled for November 20, 2018.

10 Stockman was found guilty of 23 criminal counts following a four-week jury trial,
11 including aiding and abetting the making and causing to make excessive contributions
12 aggregating in excess of \$25,000 in violation of 52 U.S.C. §§ 30116(a)(1)(A), (a)(7)(B)(i) and
13 30109(d)(1)(A)(i).⁶ Based on the First Superseding Indictment and the jury verdict, on July 3,
14 2018, the court issued an order imposing a money judgment as to Stockman in the amount of
15 \$1,250,571.65 for forfeiture of property derived from the mail and wire fraud and money

³ See 18 U.S.C. § 1519; Criminal Indictment at 36-37.

⁴ See 18 U.S.C. §§ 2, 1341, 1343, 1957; Plea Agreement and Plea Agreement-Addendum, *United States v. Jason T. Posey*, H-17-116S-03 (S.D. Tex. Oct. 11, 2017) ("Posey Plea Agreement").

⁵ See Agreed Order for Monthly Payments, *United States v. Jason T. Posey*, H-17-116S-03 (S.D. Tex. July 31, 2018).

⁶ See Verdict, *United States v. Stephen E. Stockman*, H-17-116-S (S.D. Tex. Apr. 12, 2018). On May 28, 2018, Stockman filed a Motion for Judgment of Acquittal. Stockman's Rule 29 Motion for Judgment of Acquittal, *United States v. Stephen v. Stockman*, 4:17-cr-0016(2) (May 28, 2018). On June 13, 2018, Stockman's motion was denied. Order, *United States v. Stephen E. Stockman*, H-17-116-2 (June 13, 2018) ("Order Denying Motion for Judgment of Acquittal").

1 laundering offenses, which will become final and included in the judgment at Stockman's
2 sentencing hearing scheduled for November 7, 2018.⁷

3 As discussed below, the Commission dismisses the allegations that Posey and CAF made,
4 and Stockman and the Committee received, prohibited in-kind contributions in connection with
5 the mailer. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

6 **II. FACTS**

7 Steve Stockman was the U.S. Representative for Texas's 36th Congressional District from
8 January 2013 through January 2015. On December 18, 2013, Stockman filed a Statement of
9 Candidacy for the March 4, 2014, Republican primary election for U.S. Senate in Texas,⁸ and
10 designated the Committee as his principal campaign committee for that election.⁹

11 In August 2013, Jason Posey registered CAF in Texas as a nonprofit corporation; the
12 entity dissolved on January 29, 2016.¹⁰ On CAF's Texas Secretary of State filings, Posey is listed
13 as CAF's Director; in his Supplemental Response to the Complaint, Posey identifies himself as its
14 President.¹¹ At the time he registered CAF, it appears that Posey also worked as a consultant for

⁷ See Order Imposing Money Judgment, *United States v. Stephen E. Stockman*, 4:17-cr-116-2 (July 5, 2018); Order Resetting Sentencing, *United States v. Stephen E. Stockman*, 4:17-cr-116-2 (July 24, 2018).

⁸ See Steve Stockman Statement of Candidacy, FEC Form 2, Dec. 18, 2013. Stockman lost the primary election.

⁹ See Steve Stockman for Senate Statement of Organization, FEC Form 1, Dec. 13, 2013. The Committee organized as "Steve Stockman for Senate" and later changed its name to "Team Stockman." See Amended Statement of Organization, FEC Form 1, July 17, 2014. Thereafter, the Committee changed its name back to "Steve Stockman for Senate." See Amended Statement of Organization, FEC Form 1, Feb. 28, 2015.

¹⁰ Dun and Bradstreet, *Center for the American Future, Inc.* profile. Retrieved May 24, 2016.

¹¹ See *id.*; Texas Secretary of State filing, Center for the American Future, Inc. (registered Aug. 28, 2013); CAF Supp. Resp. at 4 (Mar. 25, 2015).

1 Stockman's House campaign committee, Friends of Congressman Steve Stockman.¹² From
2 January 3, 2013, through October 15, 2013, Posey was also employed as Special Projects Director
3 of Stockman's congressional office.¹³

4 The mailer at issue was apparently distributed by CAF no later than February 24, 2014,
5 when it became the subject of a news article.¹⁴ The 16-page document was styled to look like a
6 newspaper — it is titled *The Conservative News* and the front page contains the word "Free" near
7 the upper right corner. The heading states: "This is a print version of the online Conservative
8 News, available for download at CenterForTheAmericanFuture.com." The mailer includes
9 articles and photographs of Stockman, Stockman's primary opponent U.S. Senator John Cornyn,
10 and other political figures. The lead article on the front page is headlined, "Cornyn betrays Cruz,
11 funds Obamacare," next to a photograph of Senator Cornyn shaking hands with President Obama.
12 Other articles in the mailer contain headlines such as "Pro-Lifers: Cornyn Voted to Fund

¹² From January 30, 2013, through November 20, 2013, Posey signed and filed disclosure reports for Stockman's House campaign committee. See Friends of Congressman Steve Stockman Amended Statements of Organization (Jan. 31, 2013 and Jan. 14, 2014). In addition, Stockman's congressional committee made a \$4,956 disbursement to Posey on July 24, 2014, for "consulting fees." Friends of Congressman Steve Stockman October 2014 Quarterly Report at 8.

¹³ See Office of Congressional Ethics Report and Findings Review No. 13-6070 at 10 (Feb. 27, 2014).

¹⁴ The Complaint did not provide a copy of the mailer at issue. Rather, it contains a hyperlink to a press article dated February 24, 2014, which contained a hyperlink to *The Conservative News*, which was not functioning at the time the Complaint was received. See Nick Swartzell, *Group Responsible for Newspaper-like Mailings Has Ties to Stockman*, DALLAS MORNING NEWS, Feb. 24, 2014, <http://trailblazersblog.dallasnews.com/2014/02/group-responsible-for-newspaper-like-mailings-has-ties-to-stockman.html> ("Swartzell, *Group Responsible*"). The Commission obtained a copy of the mailer via an archived version of the CAF website from March 6, 2014. See <https://web.archive.org/web/20140306025347/http://centerfortheamericanfuture.com/>. The CAF website ceased functioning as of February 21, 2016. The *Conservative News* itself is not dated.

1 Abortion,” “Cornyn Maneuvers to Help Reid Pass Illegal Alien Amnesty,” “Cornyn Blasts Open
2 Carry Law,” and “Pro-gun groups back Stockman.” The mailer contains no disclaimer.¹⁵

3 The Complaint describes CAF’s mailer as “fake newspapers ‘praising’ Stockman and
4 ‘slamming’ Cornyn” and alleges it was coordinated with Stockman and his Senate campaign
5 committee.¹⁶ In responses filed before the indictments, Respondents denied the allegations in the
6 Complaint and request that it be dismissed. The Committee denied any illegal coordination
7 between it and CAF or that Posey was ever its treasurer.¹⁷ CAF’s Response also denies
8 coordination between it and the Committee, stating that its activities “were not conducted in
9 cooperation, consultation, or concert with or at the request or suggestion of Steve Stockman, the
10 Campaign or any agent of the Campaign.”¹⁸ Posey, by sworn affidavit, avers: “Neither Steve
11 Stockman, the Campaign, nor any agent of the Campaign had any material involvement or

¹⁵ The Commission notes that the newspaper-like mailers in this matter are similar to those distributed during Stockman’s past congressional campaigns by the Stockman campaign itself. These mailers were the subject of two previous enforcement matters. See MUR 3847 (Friends of Congressman Steve Stockman) (Commission found probable cause to believe, *inter alia*, that newspaper-like mailings related to Stockman’s 1994 campaign committee contained advertisements in support of Stockman’s candidacy and solicited contributions on his behalf, but failed to include the appropriate disclaimers, and accepted a conciliation agreement containing a \$40,000 civil penalty in settlement of the violations); MUR 6625 (Friends of Congressman Steve Stockman, *et al.*) (There were an insufficient number of votes to find reason to believe that three of Stockman’s 2012 congressional campaign committee’s newspaper-like mailings either failed to include a disclaimer or failed to comply with disclaimer specifications).

¹⁶ Compl. at 2. The Complaint quotes the terms “praising” and “slamming” from the cited press article. See Swartsell, *Group Responsible*. As evidence of the alleged coordination, Complainant asserts that CAF’s website contained a donor data file reflecting credit card transactions of donations to Stockman’s Senate campaign committee. Compl. at 1-2; Supp. Compl. (June 23, 2014).

¹⁷ Stockman Resp. at 1 (June 6, 2014). Respondents assert that the donor data file was a nonworking template developed by a web designer, and used to test web page functionality and to build Stockman for Senate and CAF’s respective websites, and that no committee donations were ever redirected to CAF or any other party. See Stockman Resp. at 1; Stockman Supp. Resp. at 2 (Apr. 6, 2015); CAF Supp. Resp. at 1-4.

¹⁸ CAF Resp. at 1.

1 substantial discussions with me, the Center, or any other officers or agents of the Center related to
2 the Center activities.”¹⁹

3 In Posey’s guilty plea, however, he admitted that the affidavit he submitted to the
4 Commission was false and was intended to “impede and obstruct an FEC investigation into
5 Stockman’s involvement in the printing, publication, and distribution” of the mailers.²⁰

6 Specifically, Posey admitted that the following statements in his affidavit were knowingly false:

7 (1) that the mailers “were not conducted in cooperation, consultation, or concert with or at the
8 request or suggestion of Steve Stockman, Stockman for Senate Campaign . . . , or any agent of the
9 Campaign;” and (2) that “[n]either Steve Stockman, the Campaign, nor any agent of the
10 Campaign had any material involvement or substantial discussions with [Posey], [CAF] or any
11 other officers or agents of [CAF] related to” the publication of the mailers.²¹ Rather, Posey
12 acknowledged in his Plea Agreement that he was aware at the time he made these statements to
13 the Commission that Stockman “personally supervised and directed” the publication and
14 distribution of the mailers.²²

15 With regard to the funding of the mailers, Posey’s Plea Agreement sets forth that knowing
16 that CAF’s activities were never intended to be independent of Stockman or his Senate
17 Committee, Posey falsely represented to a donor, Richard Uihlein,²³ that the mailers were

¹⁹ Posey Aff. ¶ 6.

²⁰ Posey Plea Agreement at 15.

²¹ *Id.* at 15-16.

²² *Id.* at 16.

²³ Posey’s Plea Agreement does not identify Uihlein by name, but rather as “Person B.” In the Order Denying Stockman’s Motion for Judgment of Acquittal, the court identifies Uihlein by name as the donor.

1 independent expenditures by CAF and solicited a \$450,571.65 contribution from him to fund the
2 purported independent expenditure.²⁴ Uihlein testified at Stockman's trial that, when the
3 solicitation was made, he understood that the project would be independent of Stockman and his
4 campaign:

5 [Prosecutor]: And did you understand, based on the representations made to you, that the
6 advertising would be done independently of the defendant and his
7 campaign?
8

9 [Uihlein]: Yes.

10 [Prosecutor]: Was that fact important to you when you wrote this check?

11 [Uihlein]: Yes, it was.

12 [Prosecutor]: If you had been told that the expenditure would, in fact, be made in
13 coordination with the defendant, would you have written this check?
14

15 [Uihlein]: No, I wouldn't.²⁵

16 On or about March 14, 2014, the direct mail company refunded approximately
17 \$214,718.51 – the unspent portion of the \$450,571.65 contribution – to CAF. Rather than return
18 this money to Uihlein, Posey used the funds to pay debts associated with Stockman's Senate
19 campaign and to finance personal expenses.²⁶

20 **III. LEGAL ANALYSIS**

21 The costs of printing and distributing the CAF mailer constitutes an in-kind contribution to
22 Stockman and Steve Stockman for Senate because it meets the Commission's "coordinated
23

²⁴ Posey Plea Agreement at 14.

²⁵ Order Denying Motion for Judgment of Acquittal at 2-3.

²⁶ Posey Plea Agreement at 16.

1 communication”²⁷ three-pronged test: (1) payment for the communication by a third party;
2 (2) satisfaction of one of the “content” standards;²⁸ and (3) satisfaction of one of the “conduct”
3 standards.

4 The payment prong of the coordinated communication test is satisfied because the
5 available information shows that CAF, using funds obtained from Uihlein, paid to produce and
6 distribute the mailer.²⁹ The content prong also appears to be satisfied because *The Conservative*
7 *News* is a public communication that clearly refers to Stockman and was publicly distributed or
8 disseminated in Stockman’s jurisdiction — Texas — within 90 days of the March 4, 2014, Senate
9 primary election.³⁰

10 The conduct prong is satisfied because Stockman personally supervised the publication
11 and distribution of the mailer,³¹ thus satisfying one or more of the following types of conduct:

²⁷ See 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.21(b)(1).

²⁸ The content standards are: (1) an electioneering communication; (2) a public communication that disseminates, distributes, or republishes, in whole or in part, a candidate’s campaign materials; (3) a public communication containing express advocacy; (4) a public communication that refers to a clearly identified Federal candidate that is publicly distributed or disseminated 90 days or fewer before a primary or general election, and was directed to voters in the jurisdiction of the clearly identified candidate; and (5) a public communication containing the functional equivalent of express advocacy. 11 C.F.R. § 109.21(c)(1)–(5).

²⁹ See Posey Plea Agreement at 14-16; *see also* Order Denying Motion for Judgment of Acquittal at 2-3.

³⁰ See 11 C.F.R. § 109.21(c)(4)(i). *The Conservative News* appears to meet the definition of “public communication” because it is a newspaper or a mass mailing to the general public, as *The Conservative News* states that it “is a print version of the online Conservative News,” and CAF admits that it distributed its newsletters in paper form. See 52 U.S.C. § 30101(22); 11 C.F.R. § 100.26; Posey Aff. ¶ 4. According to the Criminal Indictment, Stockman and Posey coordinated with two direct mail companies to deliver hundreds of thousands of copies to voters, indicating that the mailer was disseminated in quantities exceeding 500 pieces, thus also qualifying as a “mass mailing.” See Criminal Indictment at 20; 52 U.S.C. § 30101(23); 11 C.F.R. § 100.27. Stockman was clearly identified in the mailer because photographs of him and references to his name and position as a congressman appear on each page of the mailer. Finally, *The Conservative News* itself is undated, but *The Dallas Morning News* article hyperlinking to it is dated February 24, 2014, suggesting that the mailer was disseminated in Texas around the time of the article, which was within 90 days of the Republican primary election for U.S. Senate in Texas on March 4, 2014.

³¹ Posey Plea Agreement at 16.

1 (1) the communication was created, produced, or distributed at the request or suggestion of a
2 candidate or his campaign; (2) the candidate or his campaign was materially involved in decisions
3 regarding the communication; and (3) the communication was created, produced, or distributed
4 after substantial discussions with the campaign or its agents.³² Accordingly, CAF and Jason
5 Posey made, and Steve Stockman and Steve Stockman for Senate received, in-kind contributions
6 in the form of a coordinated communication.

7 Under the circumstances presented in this matter, the Commission does not believe
8 pursuing the violation as to Stockman or his Senate Committee is necessary to adequately
9 vindicate the Commission's civil enforcement interests under the Act. Stockman was charged
10 and convicted of, among other offenses, aiding and abetting the making of an excessive
11 contribution in violation of 52 U.S.C. §§ 30116(a)(1)(A) and (a)(7)(B)(i) stemming from the same
12 facts as presented in the instant matter. His motion for a judgment of acquittal was denied, and he
13 was ordered to pay \$1.2 million in restitution. He will also face a prison sentence which will be
14 determined at this hearing scheduled for November 7, 2018.

15 As to Posey, he pled guilty to mail fraud, wire fraud, and money laundering, the
16 underlying facts of which, as presented in the factual basis of his plea, directly relate to MUR
17 6793. He agreed to begin making restitution payments in anticipation of his restitution debt to be
18 determined at his sentencing hearing scheduled for November 20, 2018. In addition, CAF is
19 dissolved as of January 2016.³³ Further, Steve Stockman for Senate has been defunct since

³² See 11 C.F.R. § 109.21(d)(1), (2), (3).

³³ See n.10, *supra*.

1 October 1, 2014, when it began reporting no receipts or disbursements, no cash-on-hand, and
2 debts and obligations of \$12,675 owed to a vendor for advertising.³⁴

3 Therefore, the Commission dismisses the allegations that CAF and Jason Posey made, and
4 Steve Stockman and Steve Stockman for Senate received, in-kind contributions in the form of a
5 coordinated communication.³⁵ *See Heckler v. Chaney*, 470 U.S. 821 (1985).

³⁴ Steve Stockman for Senate, Year-End 2014 Report (Jan. 31, 2015); July 2018 Quarterly Report (July 7, 2018).

³⁵ The Complaint also alleged that CAF's mailer lacked the required disclaimers. *See* Compl. at 1. In light of the dismissal determination as to the coordinated communication allegation, the Commission also dismisses the allegation that CAF and Jason Posey violated 52 U.S.C. § 30120.

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