

CREW | citizens for responsibility and ethics in Washington

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November 18, 2015

Federal Election Commission
Office of Complaints Examination
and Legal Administration
Attn: Frankie Hampton, Paralegal
999 E Street, N.W.
Washington, D.C. 20463

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Federal Election Commission
Office of General Counsel
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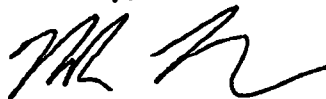
Re: MUR 6816/Amended Complaint

Dear Mr. Hampton:

Please find under cover of this letter an amended complaint in MUR 6816. We file this amended complaint to supplement the complainants provided in CREW's original complaint, filed on May 7, 2014. In the time during which CREW's complaint has been pending, CREW has experienced staff changes necessitating an update to the parties to the complaint. CREW submits this amended complaint to substitute me, CREW's current executive director, as a complainant for CREW's previous executive director, Melanie Sloan. Accordingly, the amended complaint includes new allegations specific to me (*see* Am. Compl. ¶¶ 1, 7, and conclusion) and removes allegations specific to Ms. Sloan. The exhibits to the amended complaint are identical to the exhibits to the original complaint and are incorporated therein, but, in the interest of not duplicating copies in the administrative record, CREW does not resubmit the exhibits.

Please further note that our address has changed. Please direct all future correspondence to the address below.

Sincerely,



Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics
in Washington
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Washington, D.C. 20001
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(202) 588-5020 (fax)
nbookbinder@citizensforethics.org

Encl.

FEDERAL ELECTION COMMISSION

2015 NOV 18 PM 2:08

In the matter of:

American Future Fund
Americans for Job Security
60 Plus Association
Center to Protect Patient Rights/American Encore
Sandy Greiner
Stephen DeMaura
Amy Frederick
Sean Noble

MUR No. 6816

AMENDED COMPLAINT

1. Citizens for Responsibility and Ethics in Washington ("CREW") and Noah Bookbinder bring this amended complaint before the Federal Election Commission ("FEC") seeking an immediate investigation and enforcement action against the American Future Fund ("AFF"), Americans for Job Security ("AJS"), the 60 Plus Association ("60 Plus"), the Center to Protect Patient Rights ("CPPR") (now known as American Encore), Sandy Greiner, Stephen DeMaura, Amy Frederick, and Sean Noble for direct and serious violations of the Federal Election Campaign Act ("FECA").

2. A recent news report based on interviews with Mr. Noble asserts CPPR made contributions to AFF, AJS, and 60 Plus earmarked to pay for air time to broadcast specific television advertisements in House races in 2010. In dozens of independent expenditure and electioneering communications reports filed in 2010, however, AFF, AJS, and 60 Plus failed to disclose CPPR or any other contributors who paid for the reported campaign spending, as required by the FECA and FEC regulations. These omissions have denied the public important information about who paid for the advertisements broadcast by AFF, AJS, and 60 Plus, and appear to violate the FECA and FEC regulations.

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Complainants

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

4. In furtherance of its mission, CREW seeks to expose unethical and illegal conduct of those involved in government. One way CREW does this is by educating citizens regarding the integrity of the electoral process and our system of government. Toward this end, CREW monitors the campaign finance activities of those who run for federal office and those who make expenditures to influence federal elections, and publicizes those who violate federal campaign finance laws through its website, press releases, and other methods of distribution. CREW also files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance violations and filing complaints with the FEC serve CREW's mission of keeping the public informed about individuals and entities that violate campaign finance laws and deterring future violations of those laws.

5. In order to assess whether an individual or entity is complying with federal campaign finance law, CREW needs the information contained in independent expenditure and electioneering communications disclosure reports that must be filed pursuant to the FECA, 2 U.S.C. §§ 434(c), (f), (g); 11 C.F.R. §§ 104.20, 109.10(b)-(e). CREW is hindered in its programmatic activity when an individual or entity fails to disclose campaign finance information in reports required by the FECA.

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6. CREW relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated disclosure reports are the only source of information CREW can use to determine if an individual or entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all disclosure reports required by the FECA are properly and timely filed with the FEC. CREW is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

7. Complainant Noah Bookbinder is the executive director of Citizens for Responsibility and Ethics in Washington. At all times relevant to the complaint, he has been and remains a citizen of the United States, and a registered voter and resident of Maryland. As a registered voter, Mr. Bookbinder is entitled to receive information contained in disclosure reports required by the FECA, 2 U.S.C. § 434; 11 C.F.R. §§ 104.1, 104.20, 109.10. Mr. Bookbinder is harmed when an individual, candidate, political committee or other entity fails to report campaign finance activity as required by the FECA. *See FEC v. Akins*, 524 U.S. 11, 19 (1998), *quoting Buckley v. Valeo*, 424 U.S. 1, 66-67 (1976) (political committees must disclose contributors and disbursements to help voters understand who provides which candidates with financial support). Mr. Bookbinder is further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting his ability to review campaign finance information.

Respondents

8. The American Future Fund is a tax-exempt organization established in 2007, organized under section 501(c)(4) of the Internal Revenue Code, and based in Des Moines, Iowa.

9. Sandy Greiner was president of AFF at all times relevant to this complaint, and signed independent expenditure and electioneering communications disclosure forms on behalf of AFF.

10. Americans for Job Security is a tax-exempt organization established in 1998, organized under section 501(c)(6) of the Internal Revenue Code, and based in Alexandria, Virginia.

11. Stephen DeMaura was president of AJS at all times relevant to this complaint, and signed independent expenditure and electioneering communications disclosure forms on behalf of AJS.

12. The 60 Plus Association is a tax-exempt organization established in 1992, organized under section 501(c)(4) of the Internal Revenue Code, and based in Alexandria, Virginia.

13. Amy Frederick was president of 60 Plus at all times relevant to this complaint, and signed independent expenditure and electioneering communications disclosure forms on behalf of 60 Plus.

14. The Center to Protect Patient Rights ("CPPR"), now known as American Encore, is a tax-exempt organization established in 2009, organized under section 501(c)(4) of the Internal Revenue Code, and based in Phoenix, Arizona.

15. Sean Noble was president of CPPR at all times relevant to this complaint.

Legal Framework

16. An "independent expenditure" is an expenditure by a person for a communication "expressly advocating the election or defeat of a clearly identified candidate" that is not coordinated with a candidate or a political party. 2 U.S.C. § 431(17); 11 C.F.R. § 100.16(a).

17. The FECA requires every person (other than a political committee) who expends more than \$250 in independent expenditures during a calendar year to file reports with the FEC identifying each person (other than a political committee) who makes contributions totaling more than \$200 in a calendar year to the person making the independent expenditure. 2 U.S.C. § 434(c)(1) (referencing 2 U.S.C. § 434(b)(3)(A)). The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. 2 U.S.C. § 431(11).

18. The FECA further requires reports filed under these provisions identify each person who made a contribution in excess of \$200 to the person filing the report "which was made for the purpose of furthering an independent expenditure." 2 U.S.C. § 434(c)(2)(C).

19. FEC regulations interpret these provisions to require the reports identify each person who made a contribution in excess of \$200 to the person filing the report that "was made for the purpose of furthering the reported independent expenditure." 11 C.F.R. § 109.10(e)(1)(vi).¹

20. The FECA and FEC regulations require every person who is not a political committee who makes independent expenditures totaling more than \$250 in a calendar year to file quarterly reports regarding the expenditures. 2 U.S.C. § 434(c)(1); 11 C.F.R. § 109.10(b). The FECA and FEC regulations also require a person who makes independent expenditures totaling \$10,000 or more on a given election in a calendar year up to the 20th day before the date of the election to file a report regarding the expenditures with the FEC within 48 hours. 2 U.S.C. §

¹ The FEC's interpretation of the statute fails to give full effect to these provisions. At a minimum, the statute requires identification of persons who made contributions "for the purpose of furthering *an* independent expenditure," 2 U.S.C. § 434(c)(2)(C) (emphasis added), but the regulation only requires identification of persons who made contributions "for the purpose of furthering *the* reported independent expenditure," 11 C.F.R. § 109.10(e)(1)(vi) (emphasis added).

434(g)(2)(A); 11 C.F.R. § 109.10(c). The FECA and FEC regulations further require a person who makes independent expenditures totaling \$1,000 or more on a given election after the 20th day before an election, but more than 24 hours before the day of the election, to file a report describing the expenditures with the FEC within 24 hours. 2 U.S.C. § 434(g)(1)(A); 11 C.F.R. § 109.10(d).

21. An "electioneering communication" is any broadcast, cable, or satellite communication that: (1) refers to a clearly identified candidate for Federal office; (2) is publicly distributed within 60 days before a general election (or 30 days before a primary election) for the office sought by the candidate; and (3) is targeted to the relevant electorate, in the case of a candidate for the House of Representatives. 2 U.S.C. § 434(f)(3)(A); 11 C.F.R. § 100.29(a).

22. The FECA requires a person who makes electioneering communications aggregating \$10,000 or more during a calendar year to file a statement describing the disbursement within 48 hours. 2 U.S.C. § 434(f)(1).

23. The FECA requires electioneering communications statements to disclose "the names and addresses of all contributors who contributed an aggregate amount of \$1,000 or more" to the organization making the electioneering communication. 2 U.S.C. § 434(f)(2).

24. For disbursements made by a corporation or labor union, FEC regulations require the reports to identify "the name and address of each person who made a donation aggregating \$1,000 or more to the corporation or labor organization, aggregating since the first day of the preceding calendar year, which was made for the purpose of furthering electioneering communications." 11 C.F.R. § 104.20(c)(9). Three FEC commissioners have interpreted this regulation to require the report identify only "donations . . . made for the purpose of furthering the electioneering communication that is the subject of the report." Statement of Reasons of Chairman Matthew S.

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Petersen and Commissioners Caroline C. Hunter and Donald F. McGahn, MUR 6002 (“MUR 6002 Statement of Reasons”), at 5.²

25. Any person who knowingly and willingly violates any provision of the FECA involving the making, receiving, or reporting of any contribution aggregating more than \$25,000 in a calendar year is subject to up to five years in prison and fines. 2 U.S.C. § 437g(d)(1)(A)(i). Any person who knowingly and willingly violates any provision of the FECA involving the making, receiving, or reporting of any contribution aggregating more than \$2,000 in a calendar year (but less than \$25,000) is subject to up to one year in prison and fines. 2 U.S.C. § 437g(d)(1)(A)(ii).

26. If two or more persons conspire to commit any offense against the United States, or defraud any agency of the United States, they are subject to up to five years in prison and fines. 18 U.S.C. § 371.

Factual allegations

27. News reports closely link CPPR with Charles and David Koch, and was described as a “major cash turnstile for groups on the right during the past two election cycles.” Matea Gold, A Koch-Tied Labyrinth of Political Spending, *Washington Post*, January 6, 2014 (attached as Exhibit A). Mr. Noble personally served as a political consultant to the Koch brothers, and frequently attended meetings the pair convened at which money was raised for groups engaged in political activities. Kim Barker and Theodoric Meyer, The Dark Money Man: How Sean Noble Moved the Kochs’ Cash Into Politics and Made Millions, *ProPublica*, February 14, 2014 (attached as Exhibit B).

² The FEC’s interpretation of the statute fails to give full effect to these provisions and is the subject of a current court challenge. *Van Hollen v. FEC*, 851 F. Supp. 2d 69 (D.D.C.), *reversed, remanded, and vacated sub nom*, *Center for Individual Freedom v. Van Hollen*, 694 F.3d 108 (D.C. Cir. 2012).

28. A recently published news report describes CPPR's activities during 2010. Eliana Johnson, Inside the Koch-Funded Ads Giving Dems Fits, *National Review Online*, March 31, 2014 (attached as Exhibit C). The report is based in large part on interviews with Mr. Noble, who is quoted throughout, frequently revealing internal CPPR activities and strategies not otherwise public. The report does not cite or appear to rely on any anonymous sources, and only quotes two other interviews. As a result, even where Mr. Noble is not quoted directly, he was almost certainly the source of the information about CPPR's activities.

29. As described by Mr. Noble, in 2010 CPPR engaged in extensive political campaign activities in opposition to Democrats running for the House. These activities included researching and producing campaign advertisements and making contributions to other organizations, including AFF, AJS, and 60 Plus, earmarked for broadcasting the ads.

30. Mr. Noble and CPPR "produced dozens of ads that targeted hundreds of Democratic congressmen in the 2010 midterm elections," bringing in "GOP pollster and wordsmith Frank Luntz and ad guru Larry McCarthy" to create and produce the ads. *Id.*

31. Mr. Noble and CPPR carefully selected the political races in which the ads would be broadcast. According to Mr. Noble, he and CPPR decided to focus on House races: "We made a deliberate recommendation that you gotta focus on the House, Obamacare clearly was the watershed moment that provided the juice to deliver the majority back to the Republicans in the House." *Id.* To achieve this goal, Mr. Noble and CPPR relied on a spreadsheet listing vulnerable Democratic House members ranked "in order of the likelihood of their defeat." *Id.* Each House district identified on the spreadsheet was assigned a "win potential" between 1 and 5 and a score between 1 and 40 based on the voting record of each member and the composition of the district,

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among other things.” Johnson, *National Review Online*, Mar. 31, 2014. The spreadsheet evolved as the political landscape changed. It listed 64 Democratic members on June 8, 2010, but expanded to 88 members later in June and 105 in August. *Id.*

32. CPPR did not directly pay for the air time to broadcast the advertisements. Rather, CPPR earmarked contributions to other groups to pay for broadcasting them. As the news report recounted: “Noble coordinated the disbursement of over \$50 million to several other groups that paid to put the ads on the air: Americans for Prosperity, the 60 Plus Association, Americans for Job Security, Americans for Limited Government, and the American Future Fund.” *Id.* (emphasis added).

33. Mr. Noble’s statements in the news report confirm CPPR’s control of the spending. Mr. Noble repeatedly attributed the advertisements to CPPR, not the organizations that broadcast them. Discussing the content of the ads broadcast against Democratic House members, Mr. Noble asserted CPPR made the decision to focus on then-House Speaker Nancy Pelosi (D-CA), rather than President Obama or Senate Majority Leader Harry Reid (D-NV): “‘When we tied [Democratic House members] to Pelosi, swing voters were more likely to vote against them 65 percent of the time,’ Noble says.” *Id.*

34. Mr. Noble similarly claimed he and CPPR decided in which races to broadcast the advertisements. The 105 Democratic candidates listed on the spreadsheet were divided into three tiers based on the likelihood of a Republican win, “and resources were allotted accordingly.” Johnson, *National Review Online*, Mar. 31, 2014. As the election neared: “The political climate was so hostile to Democrats that Noble wound up running ads against Democrats who fell into tier

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3, incumbents he'd determined it would be difficult to pick off. 'There was some interesting stretching of the field that no one thought was possible,' he says." *Id.*

35. Mr. Noble further asserted he and CPPR decided when to broadcast certain ads. According to Mr. Noble, Americans for Prosperity ran an advertisement against Rep. Betsy Markey (D-CO) in June and August that drove her approval rating so low, "Noble says, 'we did not spend another dime in that race from August until Election Day.'" *Id.* Although this advertisement was not reported to the FEC as an independent expenditure or electioneering communication, Mr. Noble's comments demonstrate his and CPPR's control over the timing of spending on political advertisements.

36. The news report identifies several advertisements "CPPR and the constellation of groups to which it disbursed millions of dollars" broadcast against Democratic candidates using earmarked contributions. *Id.* An ad ostensibly paid for by 60 Plus criticized Reps. Alan Grayson (D-FL) and Suzanne Kosmas (D-FL), and concluded, "this November, we'll remember." See <https://www.youtube.com/watch?v=bXyFTCzWiQI>. Another 60 Plus ad urged voters to "voter against" Rep. James Oberstar (D-MN). See https://www.youtube.com/watch?v=v_ICySd_RKQ. An ad funneled through AFF urged voters to "take the right path" and "vote against" Rep. Stephanie Herseth Sandlin (D-SD), see <https://www.youtube.com/watch?v=GLqzil2dCmY>, and one broadcast in the name of AJS exhorted voters to "vote against" Rep. Robert Etheridge (D-NC). See https://www.youtube.com/watch?v=unYzX_quvbc.

37. It is not clear precisely which other advertisements were paid for by contributions CPPR gave to other organizations. However, CPPR made \$25,503,000 in grants to AFF, AJS, and 60 Plus in 2010, and those three organizations spent approximately \$20,185,538 on House races

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that year. Specifically, AJS received a \$4,828,000 grant from CPPR in 2010 and spent approximately \$5,007,447 on House races, 60 Plus received a \$8,990,000 grant and spent approximately \$6,678,813 on House races, and AFF received a \$11,685,000 grant and spent approximately \$8,499,278 on House races. *See* CPPR 2010 Form 990 (amended), Schedule I, Part II (excerpts attached as Exhibit D); Open Secrets, American Future Fund, Targeted Candidates, 2010, available at <http://www.opensecrets.org/outsidespending/recips.php?cmte=American+Future+Fund&cycle=2010>; Open Secrets, Americans for Job Security, Targeted Candidates, 2010, available at <http://www.opensecrets.org/outsidespending/recips.php?cmte=Americans+for+Job+Security&cycle=2010>; Open Secrets, 60 Plus Association, Targeted Candidates, 2010, available at <http://www.opensecrets.org/outsidespending/recips.php?cmte=60+Plus+Assn&cycle=2010>.

38. AFF filed 26 reports with the FEC disclosing independent expenditures made in 2010 to place campaign advertisements on television in House races: 21 48-hour reports, four 24-hour reports, the AFF 2010 October Quarterly Report, and the AFF 2010 Year-End Report. *See* AFF Independent Expenditure Reports, available at <http://docquery.fec.gov/cgi-bin/fecimg/?C90011677>. None of these reports identified any person who made a contribution to AFF for the purpose of furthering these independent expenditures.

39. AFF also filed seven reports (two initial reports and five amendments) with the FEC disclosing electioneering communications in 2010 in which money was spent to place campaign advertisements on television in House races. *See* AFF Electioneering Communications Reports, available at <http://docquery.fec.gov/cgi-bin/fecimg/?C30001028>. None of these reports identified any contributor or person who made a contribution or donation to AFF for the purpose of furthering these electioneering communications.

40. AJS filed four reports with the FEC disclosing independent expenditures made in 2010 to place campaign advertisements on television in House races: three 48-hour reports and the AJS 2010 October Quarterly Report. See AJS Independent Expenditure Reports, available at <http://docquery.fec.gov/cgi-bin/fecimg/?C90011669>. None of these reports identified any person who made a contribution to AJS for the purpose of furthering these independent expenditures.

41. AJS also filed one report with the FEC disclosing electioneering communications in 2010 in which money was spent to place campaign advertisements on television in House races. See AJS Electioneering Communications Reports, available at <http://docquery.fec.gov/cgi-bin/fecimg/?C30001135>. This report does not identify any contributor or person who made a contribution or donation to AJS for the purpose of furthering these electioneering communications.

42. 60 Plus filed 22 reports with the FEC disclosing independent expenditures made in 2010 to place campaign advertisements on television in House races: 15 48-hour reports, four 24-hour reports, the 60 Plus 2010 October Quarterly Report, and one initial and one amended 60 Plus 2010 Year-End Report. See 60 Plus Independent Expenditure Reports, available at <http://docquery.fec.gov/cgi-bin/fecimg/?C90011685>. None of these reports identified any person who made a contribution to AJS for the purpose of furthering these independent expenditures.

43. 60 Plus also filed one report with the FEC disclosing electioneering communications in 2010 in which money was spent to place campaign advertisements on television in House races. See 60 Plus Electioneering Communications Reports, available at <http://docquery.fec.gov/cgi-bin/fecimg/?C30001671>. This report does not identify any contributor or person who made a contribution or donation to AJS for the purpose of furthering these electioneering communications.

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44. AFF was and is aware of its obligations under the FECA and FEC regulations to disclose the names of its donors who made contributions for the purpose of broadcasting specific advertisements. On September 30, 2013, the FEC sent AFF a Request for Additional Information regarding AFF's 2012 October Quarterly report. See Letter from FEC Senior Campaign Finance and Reviewing Analyst Kendra Hannan to the AFF, September 30, 2013 (attached as Exhibit E). The letter informed AFF it had failed to identify any contributions used to fund the independent expenditures disclosed in the report, noted FEC regulations require AFF to disclose identifying information for each individual who made a donation used to fund the independent expenditures, and requested AFF amend its report. *Id.*

45. In response, AFF quoted the applicable regulation, and said no contributions it accepted were solicited or received for the purpose of furthering the reported independent expenditures, and, accordingly, no contributions were required to be reported under the regulations. See Letter from Jason Torchinsky and Chris Winkelman, Counsel to AFF, to FEC, October 9, 2013 (attached as Exhibit F). Although this letter was sent after AFF filed its 2010 independent expenditure and electioneering communications reports, it strongly suggests AFF was aware of its obligations under the FECA and FEC regulations.

46. AJS was and is aware of its obligations under the FECA and FEC regulations to disclose the names of its donors who made contributions for the purpose of broadcasting specific advertisements. On November 8, 2012, the FEC sent AJS a Request for Additional Information regarding AJS's 2012 October Quarterly report. See Letter from FEC Senior Campaign Finance Analyst Christopher Whyrick to AJS, November 8, 2012 (attached as Exhibit G). The letter informed AJS it had failed to identify any contributions used to fund the independent expenditures

disclosed in the report, noted FEC regulations require AJS to disclose identifying information for each individual who made a donation used to fund the independent expenditures, and requested AJS amend its report. *Id.*

47. In response, AJS discussed the applicable regulation in detail, asserting it focuses on “whether the donor made the contribution with ‘for the purpose of furthering the reported independent expenditure.’” *See* Miscellaneous Report to FEC from AJS, December 10, 2012 (attached as Exhibit H). AJS claimed no contributions accepted were solicited or received for the purpose of furthering the reported independent expenditures, and, accordingly, no contributions were required to be reported under the regulations. *Id.* Although this letter was sent after AJS filed its 2010 independent expenditure and electioneering communications reports, it strongly suggests AJS was aware of its obligations under the FECA and FEC regulations.

48. 60 Plus was and is aware of its obligations under the FECA and FEC regulations to disclose the names of its donors who made contributions for the purpose of broadcasting specific advertisements. On November 9, 2012, the FEC sent 60 Plus a Request for Additional Information regarding 60 Plus’s 2012 July Quarterly report. *See* Letter from FEC Senior Campaign Finance Analyst Bradley Matheson to the 60 Plus, November 9, 2012 (attached as Exhibit I). The letter informed 60 Plus it had failed to identify any contributions used to fund the independent expenditures disclosed in the referenced report, noted FEC regulations require 60 Plus to disclose identifying information for each individual who made a donation used to fund the independent expenditures, and requested 60 Plus amend its report. *Id.*

49. In its response, 60 Plus discussed the applicable regulation in detail, asserting it focuses on “whether the donor made the contribution with ‘for the purpose of furthering the

reported independent expenditure.” See Miscellaneous Report to FEC from 60 Plus, December 7, 2012 (attached as Exhibit J). 60 Plus claimed no contributions accepted were solicited or received for the purpose of furthering the reported independent expenditures, and accordingly no contributions were required to be reported under the regulations. *Id.* Although this letter was sent after 60 Plus filed its 2010 independent expenditure and electioneering communications reports, it strongly suggests 60 Plus was aware of its obligations under the FECA and FEC regulations.

Count I

50. AFF knowingly and willfully failed to identify CPPR and any other persons who made contributions for the purpose of furthering the independent expenditures and electioneering communications AFF made in House races in 2010.

51. As described in the news report, CPPR researched and created television advertisements to be broadcast in House races in 2010, selected which races to run the ads in, and contributed money to AFF “that paid to put the ads on the air.” The news report specifically described these activities, and was based on interviews with Mr. Noble, not anonymous sources. *Compare* MUR 6002 Statement of Reasons, at 6 (disregarding news report that did not contain specific facts alleging the costs of an advertisement were paid by a specific donor, and based in part on anonymous sources).

52. On information and belief, AFF received funds from CPPR for the purpose of furthering AFF’s reported independent expenditures and electioneering communications in House races in 2010, including but not limited to the advertisement that told voters to “take the right path” and “vote against” Rep. Herseth Sandlin.

53. AFF filed 33 reports disclosing independent expenditures and electioneering communication in House races in 2010. None of the reports identified CPPR or any other person who made contributions for the purpose of furthering those independent expenditures and electioneering communications. By failing to identify CPPR or any other person in each of those reports, AFF violated 2 U.S.C. § 434 and 11 C.F.R. §§ 104.20(c)(9), 109.10(b)-(e).

54. AFF's violations were knowing and willful, and thus subject to criminal penalties and referral to the Department of Justice. 2 U.S.C. §§ 437g(a)(5)(C), 437g(d)(1). As AFF made clear in its October 9, 2013 letter to the FEC, AFF was and is aware of its obligations under the FECA and FEC regulations.

Count II

55. AJS knowingly and willfully failed to identify CPPR and any other persons who made contributions for the purpose of furthering the independent expenditures and electioneering communications AJS made in House races in 2010.

56. As described in the news report, CPPR researched and created television advertisements to be broadcast in House races in 2010, selected which races to run the ads in, and contributed money to AJS "that paid to put the ads on the air." The news report specifically described these activities, and was based on interviews with Mr. Noble, not anonymous sources.

57. On information and belief, AJS received funds from CPPR for the purpose of furthering AJS's reported independent expenditures and electioneering communications in House races in 2010, including but not limited to the advertisement that urged voters to "vote against" Rep. Etheridge.

58. AJS filed five reports disclosing independent expenditures and electioneering communication in House races in 2010. None of the reports identified CPPR or any other person who made contributions for the purpose of furthering those independent expenditures and electioneering communications. By failing to identify CPPR or any other person in each of those reports, AJS violated 2 U.S.C. § 434 and 11 C.F.R. §§ 104.20(c)(9), 109.10(b)-(e).

59. AJS's violations were knowing and willful, and thus subject to criminal penalties and referral to the Department of Justice. 2 U.S.C. §§ 437g(a)(5)(C), 437g(d)(1). As AJS made clear in its December 10, 2012 communication to the FEC, AJS was and is aware of its obligations under the FECA and FEC regulations.

Count III

60. 60 Plus knowingly and willfully failed to identify CPPR and any other persons who made contributions for the purpose of furthering the independent expenditures and electioneering communications 60 Plus made in House races in 2010.

61. As described in the news report, CPPR researched and created television advertisements to be broadcast in House races in 2010, selected which races to run the ads in, and contributed money to 60 Plus "that paid to put the ads on the air." The news report specifically described these activities, and was based on interviews with Mr. Noble, not anonymous sources.

62. On information and belief, 60 Plus received funds from CPPR for the purpose of furthering 60 Plus's reported independent expenditures and electioneering communications in House races in 2010, including but not limited to the advertisements that criticized Reps. Grayson and Kosmas, and concluded, "this November, we'll remember," as well as the advertisement that urged voters to "vote against" Rep. Oberstar.

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63. 60 Plus filed 23 reports disclosing independent expenditures and electioneering communication in House races in 2010. None of the reports identified CPPR or any other person who made contributions for the purpose of furthering those independent expenditures and electioneering communications. By failing to identify CPPR or any other person in each of those reports, 60 Plus violated 2 U.S.C. § 434 and 11 C.F.R. §§ 104.20(c)(9), 109.10(b)-(e).

64. 60 Plus's violations were knowing and willful, and thus subject to criminal penalties and referral to the Department of Justice. 2 U.S.C. §§ 437g(a)(5)(C), 437g(d)(1). As 60 Plus made clear in its December 7, 2012 communication to the FEC, 60 Plus was and is aware of its obligations under the FECA and FEC regulations.

Count IV

65. In violation of 18 U.S.C. § 371, Mr. Noble, Ms. Greiner, Mr. DeMaura, and Ms. Frederick unlawfully conspired to violate the FECA and defraud the FEC by knowingly and willfully failing to identify CPPR as a contributor who made contributions for the purpose of furthering the independent expenditures and electioneering communications AFF, AJS, and 60 Plus made in House races in 2010.

66. Ms. Greiner, Mr. DeMaura, and Ms. Frederick knowingly entered into unlawful agreements with Mr. Noble to intentionally violate 2 U.S.C. § 434 and 11 C.F.R. §§ 104.20(c)(9), 109.10(b)-(e) and to defraud the FEC by failing to identify CPPR as a contributor who made contributions for the purpose of furthering the independent expenditures and electioneering communications AFF, AJS, and 60 Plus made in House races in 2010.

67. By signing and filing independent expenditure and electioneering communications reports that failed to identify CPPR as a contributor who made contributions for the purpose of

furthering the independent expenditures and electioneering communications AFF, AJS, and 60 Plus made in House races in 2010, Ms. Greiner, Mr. DeMaura, and Ms. Frederick committed overt acts to effect the object of the conspiracy in violation of 18 U.S.C. § 371.

Conclusion

WHEREFORE, Citizens for Responsibility and Ethics in Washington and Noah Bookbinder request that the FEC conduct an investigation into these allegations, declare the respondents to have violated the FECA and applicable FEC regulations, and order AFF, AJS, and 60 Plus to correct these violations by amending the relevant independent expenditure and electioneering communications disclosure reports to identify and make public CPPR and any other persons who made contributions for the purpose of furthering the reported independent expenditures and electioneering communications. In addition, the complainants request that the FEC impose sanctions appropriate to these violations, and take such further action as may be appropriate, including referring this matter to the Department of Justice for criminal prosecution.



ON BEHALF OF COMPLAINANTS

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Verification

Citizens for Responsibility and Ethics in Washington and Noah Bookbinder hereby verify that the statements made in the attached Complaint are, upon information and belief, true. Sworn pursuant to 18 U.S.C. § 1001.

Noah Bookbinder

Noah Bookbinder

Sworn to and subscribed before me this 18th day of November, 2015.

Elliott R. Fink

Notary Public

