



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics in Washington
455 Massachusetts Ave., N.W.
Sixth Floor
Washington, D.C. 20001

JUL - 8 2016

RE: MUR 6816
American Future Fund *et al.*

Dear Mr. Bookbinder:


This is in reference to the amended complaint you filed with the Federal Election Commission on November 18, 2015. The Commission found that there was reason to believe that American Future Fund ("AFF"), Americans for Job Security ("AJS"), and the 60 Plus Association, Inc. ("60 Plus") violated 52 U.S.C. § 30104(c)(2)(c) and (f)(2) and 11 C.F.R. §§ 104.20(c)(9) and 109.10(e)(1)(vi) by failing to identify donors who provided funds for the purpose of furthering certain independent expenditures and electioneering communications. While the Commission's investigation confirmed that 60 Plus failed to disclose its donor in both its independent expenditures and electioneering communications reports, the investigation found that AJS and AFF failed to make such disclosures in its independent expenditures only. On June 16 and July 1, 2016, the Commission accepted the conciliation agreements signed by those respondents. Further, the Commission closed the file as to them as well as to the other remaining respondents in this case, including the Center to Protect Patient Rights, Inc., a.k.a. American Encore, Sean Noble, Amy Frederick, Sandy Greiner, and Stephen DeMaura.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). Copies of the agreements are enclosed for your information.

MUR 6816 (American Future Fund *et al*)
Noah Bookbinder

If you have any questions, please contact me at (202) 694-1650.

Sincerely,



Jia Lee
Attorney

Enclosures
Conciliation Agreements

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 In the Matter of)
4) MUR 6816
5 The 60 Plus Association, Inc.)
6)
7)
8)

9 **CONCILIATION AGREEMENT**

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11 This matter was generated by a complaint filed with the Federal Election Commission
12 ("Commission"). The Commission found reason to believe that The 60 Plus Association, Inc.
13 ("60 Plus") violated 52 U.S.C. § 30104(c)(2)(C) and (f)(2) and 11 C.F.R. §§ 109.10(e)(1)(vi) and
14 104.20(c)(9) by failing to disclose that the Center to Protect Patient Rights ("CPPR") provided
15 funds for the purpose of furthering independent expenditures and electioneering communications
16 in connection with the 2010 federal elections.

17 NOW, THEREFORE, the Commission and the Respondent, having participated in
18 informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree
19 as follows:

- 20 I. The Commission has jurisdiction over the Respondents and the subject matter of this
21 proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C.
22 § 30109(a)(4)(A)(i).
23 II. Respondents have had a reasonable opportunity to demonstrate that no action should be
24 taken in this matter.
25 III. Respondents enter voluntarily into this agreement with the Commission.
26 IV. The pertinent facts in this matter are as follows:

27 **FACTUAL BACKGROUND**

28 1. 60 Plus is non-profit corporation organized under section 501(c)(4) of the Internal
29 Revenue Code ("IRC"). In 2010, 60 Plus sponsored \$6,698,293 in independent expenditures and

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1 \$397,838 in electioneering communications in connection with federal elections for the House of
2 Representatives.

3 2. CPPR is a non-profit corporation organized under section 501(c)(4) of the IRC.
4 As part of a consulting agreement, Sean Noble served as CPPR's Executive Director in 2009
5 and 2010. CPPR changed its name to American Encore in February 2014. In 2010, CPPR
6 provided a total of \$8,990,000 in grants to 60 Plus. CPPR provided those funds in installments
7 throughout the year as 60 Plus sponsored independent expenditures and electioneering
8 communications.

9 3. Noble is also the owner and sole member of Noble Associates. Noble Associates
10 served as a subcontractor to media firms that 60 Plus retained to help produce and develop
11 advertising that targeted certain candidates for the House of Representatives in 2010.

12 4. During its 2009 and 2010 fiscal years, 60 Plus raised a total of \$34,584,571 and
13 received 165,428 donations from more than 77,500 donors with an average donation size of
14 \$209. Although CPPR provided a total of \$8,990,000 in grants to 60 Plus in 2010, these funds
15 comprised only 25% of the total donations that 60 Plus received during its 2009 and 2010 fiscal
16 years.

17 5. 60 Plus spent \$7,096,131.00 for advertisements targeting candidates for the 2010
18 House of Representatives races. Using the average cost method, 60 Plus determined from an
19 accounting perspective that it spent \$4,049,608.21 on independent expenditures and \$239,777.07
20 on electioneering communications in 2010 with funds that CPPR had provided while Noble
21 served as its Executive Director.

22 6. As described in the Commission's Factual and Legal Analysis, the available
23 information including Noble's own statements, reflects that Noble helped 60 Plus produce
24 advertisements opposing certain candidates running for the House of Representatives in 2010.

1 That information indicates that Noble helped to determine advertisement placement strategy in
2 his capacity as the sole owner of Noble Associates. In that role, Noble identified the specific
3 candidates for 60 Plus to target and played a role in approving the content of 60 Plus's
4 advertisements, and learned how 60 Plus would use the funds that CPPR provided 60 Plus to
5 further specific advertisements. Thus, as Executive Director of CPPR and as the sole owner of
6 Noble Associates, a subcontractor to 60 Plus's media vendors, Noble simultaneously provided
7 funds through CPPR for 60 Plus's independent expenditure and electioneering communications
8 campaign in 2010 while helping to produce and target those advertisements through his firm,
9 Noble Associates.

10 7. The available information reflects that Noble both funded and provided media
11 services in connection with \$4,049,608.21 of 60 Plus's independent expenditures and
12 \$239,777.07 of its electioneering communications in 2010. 60 Plus did not report that CPPR
13 provided funds for the advertisements when it filed independent expenditure and electioneering
14 communications reports with the Commission in 2010.

15 8. 60 Plus contends that during the 2010 election cycle, 60 Plus and its staff
16 supervised the work of its various media vendors and ultimately made the final decisions
17 concerning the content, timing and placement of all 60 Plus advertising, including its
18 independent expenditures and electioneering communications. 60 Plus contends that it did not
19 directly pay, retain or contract with Noble or Noble Associates to provide services to 60 Plus
20 during 2010, including in connection with 60 Plus's independent expenditures and electioneering
21 communications disseminated during 2010. 60 Plus contends that CPPR's donations to 60 Plus
22 during the 2010 election cycle were not so large that 60 Plus lacked funds from other donors to
23 pay for its independent expenditures and electioneering communications.

1 9. 60 Plus contends that it has a longstanding, strict policy of not soliciting or
2 accepting donations that are earmarked, designated or otherwise encumbered for any particular
3 program or activity, including independent expenditures and electioneering communications. 60
4 Plus further contends that, in accordance with the foregoing policy, 60 Plus did not make any
5 solicitations specifically or generally requesting donations to pay for independent expenditures
6 or electioneering communications during 2009 and 2010.

7 **LAW**
8

9 10. The Federal Election Campaign Act of 1971, as amended (the "Act") requires
10 persons, other than political committees, to report independent expenditures that exceed \$250
11 during a calendar year. 52 U.S.C. § 30104(c)(1). Such a report must include, among other
12 information, "the identification of each person who made a contribution in excess of \$200 to the
13 person filing such statement which was made for the purpose of furthering an independent
14 expenditure." *Id.* § 30104(c)(2)(C).

15 11. The Commission's implementing regulation provides that an independent
16 expenditure report must include "[t]he identification of each person who made a contribution in
17 excess of \$200 to the person filing such report which contribution was made for the purpose of
18 furthering the reported independent expenditure." 11 C.F.R. § 109.10(e)(1)(vi).

19 12. The Act also provides that a person that has made electioneering communications
20 aggregating in excess of \$10,000 in a calendar year must file a disclosure statement. 52 U.S.C.
21 § 30104(f)(1). Such a report must include, among other information, "the names and addresses
22 of all contributors who contributed an aggregate amount of \$1,000 or more to the person making
23 the disbursement" during a specified time period. *Id.* § 30104(f)(2).

24 13. Commission regulations in effect at the time of the conduct in question provided
25 that when an electioneering communication has been financed by a corporation or a labor

MUR 6816 (The 60 Plus Association, Inc.)
Conciliation Agreement

1 organization, pursuant to 11 C.F.R. § 114.15, these statements must disclose the names and
2 addresses of all those who donated an aggregate amount of \$1,000 or more within a specified
3 time period "for the purpose of furthering electioneering communications." 11 C.F.R.
4 § 104.20(c)(9).

5 V. The Commission found reason to believe that 60 Plus violated 52 U.S.C.
6 § 30104(c)(2)(C) and (f)(2) and 11 C.F.R. §§ 109.10(e)(1)(vi) and 104.20(c)(9) by failing to
7 disclose CPPR as a donor in its independent expenditures and electioneering communications
8 reports. Solely in the interest of resolving this matter, and without admitting or conceding any
9 violation of law, Respondent agrees to take the following actions:

10 1. Respondent will pay a civil penalty to the Federal Election Commission in the
11 amount of fifty thousand dollars (\$50,000) pursuant to 52 U.S.C. § 30109(a)(5)(A).

12 2. Respondent will comply with 52 U.S.C. § 30104(c)(2)(C) and (f)(2) and 11
13 C.F.R. §§ 104.20(c)(9) and 109.10(e)(1)(vi) in the future.

14 3. In consultation with the Reports and Analysis Division, Respondent will amend
15 its disclosure reports to reflect CPPR as a donor with respect to the relevant independent
16 expenditures and electioneering communications.

17 VI. The Commission, on request of anyone filing a complaint under 52 U.S.C § 30109(a)(1)
18 concerning the matters at issue herein or on its own motion, may review compliance with this
19 agreement. If the Commission believes that this agreement or any requirement thereof has been
20 violated, it may institute a civil action for relief in the United States District Court for the District
21 of Columbia.

22 VII. This agreement shall become effective as of the date that all parties hereto have executed
23 same and the Commission has approved the entire agreement.

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Conciliation Agreement

1 VIII. Except as otherwise provided, Respondents shall have no more than 90 days from the
2 date this agreement becomes effective to comply with and implement the requirements contained
3 in this agreement and to so notify the Commission.

4 IX. This Conciliation Agreement constitutes the entire agreement between the parties on the
5 matters raised herein, and no other statement, promise, or agreement, either written or oral, made
6 by either party or by agents of either party, that is not contained in this written agreement shall
7 be enforceable.

8 FOR THE COMMISSION:

9 Kathleen Guith
10
11 Kathleen Guith
12 Acting Associate General Counsel
13 For Enforcement
14

7-6-16
Date

15 FOR THE RESPONDENT:

16
17 Ann Marie Judewich
18
19 The 60 Plus Association, Inc.

6/6/16
Date

MUR 6816 (American Future Fund)
Conciliation Agreement

2. CPPR is a non-profit corporation organized under section 501(c)(4) of the IRC. CPPR, which was formed in 2009, did not directly sponsor independent expenditures in 2010 but provided money to other organizations to do so. CPPR changed its name to American Encore in February 2014.

3. Sean Noble is the owner and sole member of Noble Associates. As part of a consulting agreement between Noble Associates and CPPR, Noble agreed to serve as CPPR's Executive Director in 2009 and 2010.

4. In 2010, CPPR, through Noble as its Executive Director and agent, provided a total of \$11,685,000 in grants to AFF. CPPR did not distribute this amount in one lump sum to AFF but made a series of smaller grants to AFF throughout the year.

5. In 2010, AFF's total receipts were \$23,304,826.

6. In 2010, AFF spent a total of \$8,313,866 for advertisements that qualified as independent expenditures or electioneering communications, \$7,396,831 of this total was for independent expenditures.

7. In 2010, AFF retained two media consulting firms to create, produce, and place broadcast advertising for AFF. According to information in the Commission's possession, Noble and Noble Associates served as a subcontractor to these media consulting firms.

8. Noble developed an Excel spreadsheet that identified Members of the House of Representatives and ranked them according to likelihood of defeat in the 2010 elections. AFF's 2010 advertising focused, in part, on candidates included in Noble's list.

9. The available information indicates that Noble, in his role as a subcontractor to AFF's retained media consultants, provided media services in connection with \$6,427,422.08 of AFF's independent expenditures described in paragraph 6, and was in a position to know how AFF would use CPPR funds to further specific advertisements. Noble was the Executive

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Director of CPPR at the same time he served as a subcontractor to the media consulting firms retained by AFF.

10. For purposes of settling this matter, AFF will no longer contest the Commission's conclusion that a portion of the grant funding that CPPR provided to AFF was for the purpose of furthering specific independent expenditures.

11. AFF did not report that CPPR provided funds for the advertisements when it filed independent expenditure reports with the Commission in 2010.

12. AFF contends that the available information demonstrates that AFF requested grant funds from CPPR in writing, AFF's written requests did not seek funding for any specific projects, activities, or advertisements, and CPPR's grants to AFF were accompanied by transmittal letters indicating that the grants were made as general support grants.

13. AFF contends that neither its officers nor staff spoke to Noble about specific advertisements in 2010.

LAW

14. The Federal Election Campaign Act of 1971, as amended (the "Act") requires persons, other than political committees, to report independent expenditures that exceed \$250 during a calendar year. 52 U.S.C. § 30104(c)(1). Such a report must include, among other information, "the identification of each person who made a contribution in excess of \$200 to the person filing such statement which was made for the purpose of furthering an independent expenditure." *Id.* § 30104(c)(2)(C).

15. The Commission's implementing regulation provides that an independent expenditure report must include "[t]he identification of each person who made a contribution in excess of \$200 to the person filing such report which contribution was made for the purpose of furthering the reported independent expenditure." 11 C.F.R. § 109.10(e)(1)(vi).

MUR 6816 (American Future Fund)
Conciliation Agreement

V. Respondent committed the following violations:

1. Respondent failed to disclose CPPR as a donor in its independent expenditure reports in violation of 52 U.S.C. § 30104(c)(2)(C) and 11 C.F.R. § 109.10(e)(1)(vi).

VI. Respondent will take the following actions:

1. Respondent will pay a civil penalty to the Federal Election Commission in the amount of one-hundred forty thousand dollars (\$140,000) pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will cease and desist from violating 52 U.S.C. § 30104(c)(2)(C) and 11 C.F.R. § 109.10(e)(1)(vi).

3. In consultation with the Reports and Analysis Division, Respondent will amend its disclosure reports to reflect CPPR as a donor with respect to the relevant independent expenditures.

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Except as otherwise provided, Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made

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MUR 6816 (American Future Fund)
Conciliation Agreement

by either party or by agents of either party, that is not contained in this written agreement shall
be enforceable.

FOR THE COMMISSION:

Kathleen Guith
Kathleen Guith
Acting Associate General Counsel
For Enforcement

6-21-16
Date

FOR THE RESPONDENT:

Michael Ryan
American Future Fund, Council

May 31, 2016
Date

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BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION
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In the Matter of)
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Americans for Job Security)
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MUR 6816
OFFICE OF GENERAL
COUNSEL

CONCILIATION AGREEMENT

This matter was generated by a complaint filed with the Federal Election Commission ("Commission"). The Commission found reason to believe that Americans for Job Security ("AJS") violated 52 U.S.C. § 30104(c)(2)(C) and 11 C.F.R. § 109.10(e)(1)(vi) by failing to disclose that the Center to Protect Patient Rights ("CPPR") provided funds for the purpose of furthering independent expenditures in connection with the 2010 federal elections.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

- I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).
- II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Respondents enter voluntarily into this agreement with the Commission.
- IV. The pertinent facts in this matter are as follows:

FACTUAL BACKGROUND

1. AJS is non-profit corporation organized under section 501(c)(6) of the Internal Revenue Code ("IRC"). In 2010, AJS sponsored \$4,406,901.63 in independent expenditures in connection with federal elections for the House of Representatives.

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2. CPPR is a non-profit corporation organized under section 501(c)(4) of the IRC.

As part of a consulting agreement, Sean Noble served as CPPR's Executive Director in 2009 and 2010. CPPR changed its name to American Encore in February 2014. In 2010, CPPR provided a total of \$4,800,000 in grants to AJS. CPPR provided those funds in installments throughout the year as AJS sponsored independent expenditures.

3. Noble is also the owner and sole member of Noble Associates. Noble Associates served as a subcontractor to media firms that AJS retained to help produce and develop advertising that targeted certain candidates for the House of Representatives in 2010.

4. Between November 1, 2008 and October 31, 2010, AJS received a total of \$16,016,137 in dues from hundreds of members, including \$11,216,137 in dues from sources other than CPPR.

5. AJS spent \$4,506,513.63 for advertisements targeting candidates for the 2010 House of Representatives races. Using the average cost method, AJS determined that from an accounting perspective it spent \$2,291,060.23 on independent expenditures in 2010 with funds that CPPR had provided while Noble served as its Executive Director.

6. As described in the Commission's Factual and Legal Analysis, the available information, including Noble's own statements, reflects that Noble helped AJS produce advertisements opposing certain candidates running for the House of Representatives in 2010. That information indicates that Noble helped to determine AJS's advertisement placement strategy in his capacity as the sole owner of Noble Associates. In that role, Noble identified specific candidates for AJS to target, played a role in approving the content of AJS's advertisements, and learned how AJS would use the funds that CPPR provided AJS to further specific advertisements. Thus, as Executive Director of CPPR and as the sole owner of Noble Associates, a subcontractor to AJS's media vendors, Noble simultaneously provided funds

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through CPPR for AJS's independent expenditure campaign in 2010 while helping to produce and target those independent expenditure advertisements through his firm, Noble Associates.

7. The available information reflects that Noble both funded and provided media services in connection with \$2,291,060.23 of AJS's independent expenditures in 2010.

AJS did not report that CPPR provided funds for the purpose of furthering those independent expenditures when AJS filed its independent expenditure reports with the Commission in 2010.

8. AJS contends that during 2009 and 2010, AJS's board of directors and professional staff supervised the work of its various media vendors and ultimately made the final decisions concerning the content, timing, and placement of all AJS advertising, including its independent expenditures. AJS contends that AJS did not directly pay, retain, or contract with Noble or Noble Associates to provide services to AJS during 2010, including in connection with AJS's independent expenditures. AJS contends that although CPPR's dues payments constituted an appreciable portion of AJS's receipts during the 2010 election cycle, CPPR's dues payments were not so large that AJS lacked funds from other supporters to pay for its independent expenditures disseminated during 2009 and 2010.

9. AJS contends that it has a longstanding, strict policy of not soliciting or accepting dues payments or donations that are earmarked, designated, or otherwise encumbered for any particular program or activity, including independent expenditures. AJS further contends that, in accordance with that policy, AJS did not make any solicitations specifically or generally requesting dues or donations to pay for independent expenditures during 2009 and 2010.

LAW.

10. The Federal Election Campaign Act of 1971, as amended (the "Act") requires persons, other than political committees, to report independent expenditures that exceed \$250 during a calendar year. 52 U.S.C. § 30104(c)(1). Such a report must include, among other

information, "the identification of each person who made a contribution in excess of \$200 to the person filing such statement which was made for the purpose of furthering an independent expenditure." *Id.* § 30104(c)(2)(C).

11. The Commission's implementing regulation provides that an independent expenditure report must include "[t]he identification of each person who made a contribution in excess of \$200 to the person filing such report which contribution was made for the purpose of furthering the reported independent expenditure." 11 C.F.R. § 109.10(e)(1)(vi).

V. The Commission found reason to believe that AJS violated 52 U.S.C. § 30104(c)(2)(C) and 11 C.F.R. § 109.10(e)(1)(vi) by failing to disclose CPPR as a donor in its independent expenditure reports. Solely in the interest of resolving this matter, and without admitting or conceding any violation of law, Respondent agrees to take the following actions:

1. Respondent will pay a civil penalty to the Federal Election Commission in the amount of forty-three thousand dollars (\$43,000) pursuant to 52 U.S.C. § 30109(a)(5)(A).

2. Respondent will comply with 52 U.S.C. § 30104(c)(2)(C) and 11 C.F.R. § 109.10(e)(1)(vi) in the future.

3. In consultation with the Reports and Analysis Division, Respondent will amend its disclosure reports to reflect CPPR as a donor with respect to the relevant independent expenditures.

VI. The Commission, on request of anyone filing a complaint under 52 U.S.C § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

MUR 6816 (Americans for Job Security)
Conciliation Agreement

VII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

VIII. Except as otherwise provided, Respondents shall have no more than 60 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

IX. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Kathleen Guith
Kathleen Guith
Acting Associate General Counsel
For Enforcement

6-21-16
Date

FOR THE RESPONDENT:

Am E. Tan
Americans for Job Security

4/22/16
Date