

**BEFORE THE UNITED STATES
FEDERAL ELECTION COMMISSION**

Campaign Legal Center
215 E Street, NE
Washington, DC 20002
(202) 736-2200

Democracy 21
2000 Massachusetts Avenue, NW
Washington, DC 20036
(202) 355-9600

v.

MUR No. _____

Rep. Aaron Schock
328 Cannon House Office Building
Washington, D.C. 20515

COMPLAINT

1. This complaint is filed pursuant to 2 U.S.C. § 437g(a)(1) and is based on information and belief that Rep. Aaron Schock, a member of the U.S. House of Representatives, solicited a \$25,000 contribution from Rep. Eric Cantor to the independent expenditure-only political committee (IEOPC) Campaign For Primary Accountability (Filer I.D. # C00502849) in violation of provisions of the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431, *et seq.*, and Commission regulations, as interpreted by the Commission.
2. On April 6, 2012, *Roll Call* reported that Rep. Cantor's "campaign spokesman Ray Allen told *Roll Call* that Cantor made the donation at the request of Rep. Aaron Schock (R-Ill.)" The *Roll Call* article continues, quoting Mr. Allen: "On Thursday, March 15, 2012, Leader Cantor was asked by Congressman Schock to contribute to an organization that was supporting Adam Kinzinger in the Illinois election of March 20. [Rep. Cantor's leadership PAC] ERICPAC subsequently made a contribution" The article goes on

to quote Rep. Schock admitting and describing his solicitation of a \$25,000 contribution from Rep. Cantor to Campaign For Primary Accountability: “[Rep. Schock] said [to Rep. Cantor], ‘Look, I’m going to do \$25,000 [specifically] for the Kinzinger campaign for the television campaign’ and said, ‘Can you match that?’” “And he said, ‘Absolutely.’”¹

3. Based on published reports, complainants have reason to believe that Rep. Schock’s solicitation of a \$25,000 contribution to Campaign For Primary Accountability violated 2 U.S.C. §§ 441i(e)(1)(A) and 441a(a)(1)(C) as interpreted by the Commission in Advisory Opinion 2011-12 (Majority PAC).
4. Federal law prohibits any “individual holding Federal office” from “solicit[ing] . . . funds in connection with an election for Federal office . . . unless the funds are subject to the limitations, prohibitions, and reporting requirements” of FECA. *See* 2 U.S.C. § 441i(e)(1)(A); 11 CFR § 300.61.
5. The Commission made clear in Advisory Opinion 2011-12 (Majority PAC) that, under 2 U.S.C. §§ 441a(a)(1)(C) and 441i(e)(1)(A), a federal officeholder “may only solicit contributions of up to \$5000 from individuals . . . and Federal political action committees for an IEOPC” such as Campaign For Primary Accountability.
6. Majority PAC had asked the Commission: “May Federal officeholders . . . solicit unlimited contributions” on behalf of IEOPCs. AO 2011-12 at 3. The Commission responded: “No, Federal officeholders, candidates, and officers of national party committees may not solicit unlimited contributions” on behalf of IEOPCs, but explained

¹ John Stanton, *Eric Cantor Gave \$25K to Anti-Incumbent PAC to Aid Adam Kinzinger*, Roll Call, April 6, 2012, available at http://www.rollcall.com/news/Eric_Cantor_Gave_Money_to_Super_PAC_to_Aid_Adam_Kinzinger-213651-1.html; *see also* John Stanton, *Aaron Schock’s Office Insists Super PAC Solicitation Was Legal*, Roll Call, April 11, 2012, available at http://www.rollcall.com/news/aaron_schocks_office_insists_super_pac_solicitation_was_legal-213720-1.html?pos=htmbtxt; Scott Bland, *Aaron Schock and the FEC: A Case Study of the Super PAC Era*, National Journal Hotline On Call, April 11, 2012, available at <http://hotlineoncall.nationaljournal.com/archives/2012/04/aaron-schock-an.php>.

that such officeholders “may solicit up to \$5000 from individuals (and any other source not prohibited by the Act from making a contribution to a political committee) on behalf of an IEOPC[.]” *Id.* The Commission continued:

It is clear that under *Citizens United*, the [IEOPCs] may accept unlimited contributions from individuals, corporations, and labor organizations; however, the Act’s solicitation restrictions remain applicable to contributions solicited by Federal candidates, officeholders, and national party committees and their agents. Thus, Federal candidates, officeholders, and national party committees and their agents may only solicit contributions of up to \$5000 from individuals (other than foreign nationals or Federal contractors) and Federal political action committees for an IEOPC.

Id. at 4 (emphasis added).

7. The Commission’s interpretation and application of 2 U.S.C. § 441i(e)(1)(A) in AO 2011-12 is entirely consistent with the Congressional intent and purpose of the provision, as well as Supreme Court precedent upholding it as constitutional.
8. This solicitation restriction, enacted as part of the Bipartisan Campaign Reform Act of 2002 (BCRA), was challenged and upheld in *McConnell v. FEC*, 540 U.S. 93, 142-54, 181-84 (2003). No court has since invalidated or even called into question this solicitation restriction. Indeed, the plaintiffs in *Citizens United* and *SpeechNow*—the cases that led to the creation of Super PACs—did not even challenge the solicitation restriction set forth at 2 U.S.C. § 441i(e)(1)(A).
9. The *McConnell* Court concluded that given “the substantial threat of corruption or its appearance posed by donations to or at the behest of federal candidates and officeholders,” section 441i(e) is “clearly constitutional.” *McConnell*, 540 U.S. at 183-84. Indeed, even Justice Kennedy—who later authored the majority opinion in *Citizens United*—agreed in *McConnell* that the solicitation restrictions in section 441i(e) are constitutional. In fact, for him, this was the “only one of the challenged Title I provisions

[that] satisfies *Buckley*'s anticorruption rationale and the First Amendment guarantee.”

Id. at 308 (Kennedy, J., concurring in part and dissenting in part). Justice Kennedy

wrote:

This provision is the sole aspect of Title I that is a direct and necessary regulation of federal candidates' and officeholders' receipt of quids. . . . The regulation of a candidate's receipt of funds furthers a constitutionally sufficient interest. More difficult, however, is the question whether regulation of a candidate's solicitation of funds also furthers this interest if the funds are given to another.

I agree with the Court that the broader solicitation regulation does further a sufficient interest. The making of a solicited gift is a *quid* both to the recipient of the money and to the one who solicits the payment (by granting his request). Rules governing candidates' or officeholders' solicitation of contributions are, therefore, regulations governing their receipt of *quids*. This regulation fits under *Buckley*'s anticorruption rationale.

Id. (emphasis added).

10. The solicitation restriction of 2 U.S.C. § 441i(e)(1)(A), upheld by the Supreme Court in *McConnell*, as interpreted and applied by the Commission in AO 2011-12, prohibits Rep. Schock's solicitation of a \$25,000 contribution from Rep. Cantor to the IEOPC Campaign For Primary Accountability.²
11. “If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [the FECA] . . . [t]he Commission shall make an investigation of such alleged violation” 2 U.S.C. § 437g(a)(2); *see also* 11 CFR § 111.4(a) (emphasis added).

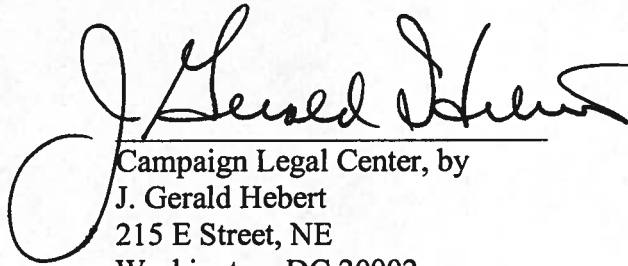
² A contribution exceeding \$5,000 to an IEOPC made in response to a solicitation by an officeholder poses a threat of actual and apparent corruption. Absent the solicitation restriction of section 441i(e)(1)(A), a federal officeholder facing a difficult reelection contest could and predictably would solicit enormous contributions to an IEOPC supporting that embattled officeholder from other Members of Congress sitting in safe electoral districts with large financial war chests and no electoral competition. Where a Member responded to such a solicitation by making such a contribution to the IEOPC supporting the embattled officeholder, that officeholder would be beholden to the generous colleague just as the embattled officeholder would be beholden to any other donor.

PRAYER FOR RELIEF

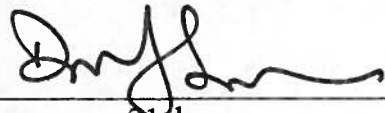
12. Wherefore, the Commission should find reason to believe that Rep. Aaron Schock has violated 2 U.S.C. § 431 *et seq.*, including 2 U.S.C. §§ 441i(e)(1)(A) and 441a(a)(1)(C), and conduct an immediate investigation under 2 U.S.C. § 437g(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin the respondent from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

April 30, 2012

Respectfully submitted,



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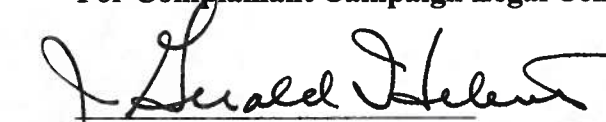
Counsel to Democracy 21

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn to pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center



J. Gerald Hebert

Sworn to and subscribed before me this 30th day of April, 2012.



Notary Public



For Complainant Democracy 21



Donald J. Simon

Sworn to and subscribed before me this 30th day of April, 2012.



Notary Public

STACEY K. KAHIKINA
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires May 14, 2012