

**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. _____

Rick Santorum
Rick Santorum For President
PO Box 37
Verona, PA 15147

John Doe, Jane Doe and other
persons who worked for and operated
Rick Santorum For President
PO Box 37
Verona, PA 15147

COMPLAINT

1. This complaint is filed pursuant to 2 U.S.C. § 437g(a)(1) and is based on information and belief that Mr. Rick Santorum, and other person(s) affiliated with and acting as agents for Rick Santorum For President (John Doe, Jane Doe and other persons) may have violated provisions of the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 441, *et seq.*
2. Specifically, based on a Sunlight Foundation report, complainants have reason to believe that Mr. Santorum or some other person(s) associated with and acting as agents for Rick Santorum For President may have violated 2 U.S.C. § 441i(e)(1)(A) by directing a contribution exceeding \$5,000 from Mr. Bill Doré to the independent expenditure-only political committee ("IEOPC" or "super PAC") Red, White and Blue Fund.

3. “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) (emphasis added) ; *see also* 11 C.F.R. § 111.4(a).

BACKGROUND

4. On July 1, 2013, the Sunlight Foundation Reporting Group published a story with the headline: “The \$1 million dinner: When big donor Bill Doré meets Rick Santorum.”¹ Detailed in the report were interviews that Sunlight Foundation staff conducted with energy executive Bill Doré. According to the report, Mr. Doré decided he wanted to support Mr. Santorum’s presidential campaign, “but wanted to meet him in person before donating.”² Mr. Doré spoke with a friend who “said he could connect him with someone on the campaign.”³ Mr. Doré was connected by his friend to a Rick Santorum For President staffer, who then arranged a meeting between Mr. Doré and Mr. Santorum.
5. Mr. Santorum and Mr. Doré met for a private dinner in Miami, Florida in January 2012. As recounted by Mr. Doré in the Sunlight interview, over dinner Mr. Doré told Mr. Santorum that he wanted to contribute one million dollars to his campaign. The amount being far in excess of what an individual can contribute to a federal office candidate, Mr. Doré then told reporters that Mr. Santorum “told him about the existence of Red, White and Blue Fund.”⁴

¹ Keenan Steiner, *The \$1 million dinner: When big donor Bill Dore meets Rick Santorum*, SUNLIGHT FOUNDATION REPORTING GROUP, July 1, 2013, <http://reporting.sunlightfoundation.com/2013/1-million-dinner-when-big-donor-bill-dore-meets-rick-santorum> (last visited Jul. 8, 2013) (hereinafter *The \$1 million dinner*).

² *Id.*

³ *Id.*

⁴ *Id.*

6. Red, White and Blue Fund (FEC I.D.# C00503417) is an IEOPC originally formed in November 2011 to support the candidacy of Rick Santorum in the 2012 presidential election.⁵ The group “ultimately spent about \$7.5 million” on advertising buys and efforts to contact voters on Mr. Santorum’s behalf in state primaries before he terminated his candidacy in April 2012, with Mr. Doré contributing a total of \$2,250,000 of that money, making him the group’s biggest donor.⁶
7. After the Sunlight Foundation reporter expressed surprise on hearing Mr. Doré’s account of his conversation with Mr. Santorum about a contribution to the Red, White and Blue Fund, Mr. Doré “backtracked.”⁷ “I don’t want to get him in any sort of problem,” Mr. Doré said, according to the news report.⁸ Mr. Doré then suggested that Mr. Santorum had instead instructed him to donate the funds to the Republican Party, not the super PAC.⁹ However, after being informed by the reporter that funds contributed to the Republican Party would also be subject to contribution limits, “he confirmed that it was the super PAC that was discussed.”¹⁰
8. In a follow-up interview conducted later that same day, Mr. Doré expressed that after further reflection, he believed that “it was Santorum’s aides,” not Mr. Santorum, who “told him about the super PAC.”¹¹
9. Mr. Doré told the Sunlight Foundation that, the day after the private dinner, he contacted the same staffer that arranged the meeting with Mr. Santorum and “she told him to send his \$1 million check to the Red, White and Blue Fund and provided him with the

⁵ Red White and Blue Fund, *About RWB Fund*, <http://www.rwbfund.com/about-rwb-fund/> (last visited Jul. 8, 2013).

⁶ *The \$1 million dinner*, *supra* note 1

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

address.”¹² Mr. Doré did as he was directed and sent the check the same day. The Red, White and Blue Fund reported receipt of the \$1 million contribution on January 11, 2012.¹³

10. Red, White and Blue Fund reported receiving four contributions totaling \$2,250,000 from Mr. Doré between January 11 and March 26, 2012.¹⁴

**FEDERAL LAW PROHIBITS CANDIDATES AND THEIR AGENTS FROM DIRECTING
CONTRIBUTIONS IN EXCESS OF \$5,000 TO SUPER PACs**

11. FECA provides that a “candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office” shall not “solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office . . . unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.” 2 U.S.C. § 441i(e)(1)(A) (emphasis added). “To direct” means to “guide . . . a person who has expressed an intent to make a contribution . . . by identifying a candidate, political committee or organization, for the receipt of such funds[.]” 11 C.F.R. § 300.2(n).
12. In 2011, in response to an advisory request asking whether “Federal officeholders and candidates, and officers of national party committees, [may] solicit unlimited contributions from individuals, corporations, and labor organizations on behalf of political committees that make only independent expenditures,” the Commission answered with an unequivocal “no.” AO 2011-12 at 2.

¹²

Id.

¹³

Id.

¹⁴

Red, White and Blue Fund, “Individuals Who Gave To This Committee,” http://query.nictusa.com/cgi-bin/com_ind/C00503417/ (last visited August 8, 2013).

13. The Commission explained that while “[i]t is clear that under *Citizens United*, the Committees may *accept* unlimited contributions from individuals, corporations, and labor organizations . . . the Act’s solicitation restrictions remain applicable to *contributions solicited by* Federal candidates, officeholders, and national party committees and their agents.” AO 2011-12 at 4 (emphasis in original).
14. The Commission concluded that “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.*
15. Just as the Commission recognized in AO 2011-12 that the soft money solicitation ban established by 2 U.S.C. § 441i(e)(1)(a) is still valid law and prohibits federal candidates and their agents from soliciting more than \$5,000 for a super PAC, so too does the soft money ban prohibit candidates and their agents from directing contributions in excess of \$5,000 to a super PAC.
16. 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.
17. The prohibition on candidates soliciting and directing soft money, 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 restriction on soliciting or directing soft money. Indeed, the plaintiffs in *Citizens United* and *SpeechNow*—the cases that led to the creation of

super PACs—did not even challenge the soft money restrictions set forth at 2 U.S.C. § 441i(e)(1)(A).

18. 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.
19. Even Justice Kennedy—who later authored the majority opinion in *Citizens United*—agreed in *McConnell* that the soft money 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 explained:

[Section 441i(e)] is directed solely to federal candidates and their agents . . . and it incorporates important exceptions to its limits (candidates may receive, solicit, or direct funds that comply with hard-money standards; . . . ; candidates may solicit or direct unlimited funds to organizations not involved with federal election activity . . .). These provisions help ensure that the law is narrowly tailored to satisfy First Amendment requirements. For these reasons, I agree § [441i(e)] is valid.

Id. at 314.

20. The soft money restrictions 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, prohibited Mr. Santorum, while a candidate for federal office, and any agent of Mr. Santorum while he was a candidate for federal office, from directing a \$1 million contribution from Mr. Doré to the Red, White and Blue Fund.
21. Based on published reports, complainants have reason to believe that Mr. Santorum, and/or other person(s) affiliated with and acting as agents of the Rick Santorum For

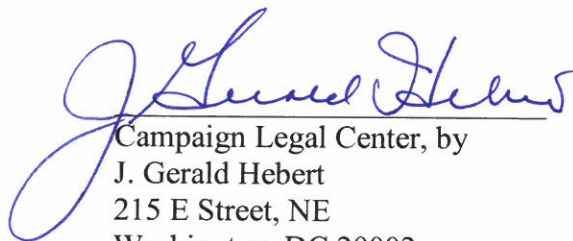
President committee, may have violated 2 U.S.C. § 441i(e)(1)(A) by directing funds far in excess of the applicable \$5,000 limit to Red, White and Blue Fund.

PRAYER FOR RELIEF

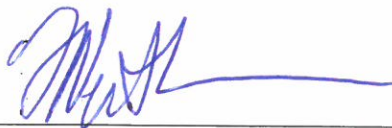
22. Wherefore, the Commission should find reason to believe that Rick Santorum and any other person(s) who acted on the behalf of the Rick Santorum For President committee (John Doe, Jane Doe and other persons) have violated 2 U.S.C. § 441i(e)(1)(A) and should conduct an immediate investigation under 2 U.S.C. § 437g(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin the respondents 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.

August 13, 2013

Respectfully submitted,



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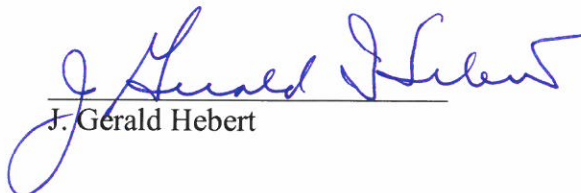
Counsel to Democracy 21

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 13 day of August, 2013.


Notary Public

For Complainant Democracy 21


Fred Wertheimer

Sworn to and subscribed before me this 13 day of August, 2013.


Notary Public

