

FEDERAL ELECTION COMMISSION

In the matter of: U.S. Term Limits

MUR No:

COMPLAINT

1. Citizens for Responsibility and Ethics in Washington ("CREW"), Melanie Sloan and Doug Staggs bring this complaint before the Federal Election Commission ("FEC" or "Commission") seeking an immediate investigation and enforcement action against U.S. Term Limits ("USTL") for multiple serious violations of the Federal Election Campaign Act ("FECA").

Complainants

2. Complainant CREW is a non-profit corporation, organized under Section 501(c)(3) of the Internal Revenue Code. CREW is committed to ensuring the integrity of government officials and to protecting the right of citizens to be informed about the activities of government officials. CREW is dedicated to empowering 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.

3. In furtherance of its mission, CREW seeks to expose the 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 publicizes violations of federal campaign finance laws. CREW also files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance violations and filing complaints with the FEC serves CREW's mission of keeping the public informed about individuals and entities who

violate campaign finance laws and deterring future violations of campaign finance law.

4. In order to assess whether a person, candidate, political committee or other entity is complying with federal campaign finance law, CREW needs the information contained in receipts and expenditures reports that must be filed pursuant to the FECA, 2 U.S.C. § 434. CREW is hindered in its programmatic activity when a person, candidate, political committee or other entity fails to disclose campaign finance information in reports of receipts and expenditures required by the FECA.

5. CREW relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated reports of receipts and expenditures are the only source of information CREW can use to determine if a person, candidate, political committee or other entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all reports of receipts and expenditures 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.

6. Complainant Melanie Sloan is the executive director of Citizens for Responsibility and Ethics in Washington, a citizen of the United States and a registered voter and resident of the District of Columbia. Complainant Doug Staggs is a citizen of the United States, an employee of Colorado Ethics Watch, and a registered voter and resident of the state of Colorado. As registered voters, Ms. Sloan and Mr. Staggs are entitled to receive information contained in reports of receipts and expenditures required by the FECA, 2 U.S.C. § 434(a)(2). Ms. Sloan and Mr. Staggs are harmed when a person, 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). Ms. Sloan and Mr. Staggs are further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting their ability to review campaign finance information.

Respondent

7. U.S. Term Limits is a Section 501(c)(4) organization incorporated in the District of Columbia and Virginia. Its contact information is as follows:

U.S. Term Limits
9900 Main Street, Ste. 303
Fairfax, VA 22031
<http://www.termlimits.org>
Tel: (703) 383-0907
Fax: (703) 383-5288
E-mail: info@ustl.org

Factual Allegations

8. On March 26, 2008, U.S. Term Limits began to air a television advertisement that expressly advocates the election of Bob Schaffer to the U.S. Senate on selected broadcast and cable television networks in the state of Colorado. The television advertisement is available at <http://www.youtube.com/user/TermLimitsVideos>, under the title "Bob Schaffer for Senate video." See Exhibit A. On information and belief, the advertisement is scheduled to run for several weeks.

9. In the advertisement, numerous children and one parent praise Mr. Schaffer, stating:

Today, we have more charter schools thanks to Bob Schaffer. Thanks, Bob! Thanks, Bob! Thanks, Bob! Thanks, Bob! Thanks, Bob! We couldn't have done it without you. Thanks for standing up for us. Even when it was really, really hard. Bob does the right thing. Bob keeps his promises. Thanks, Bob Schaffer, for giving my daughter a chance. Bob Schaffer helped create the Colorado Charter School Act. Tell Bob to keep giving us real education options. Thanks, Bob! Thanks, Bob!

Toward the end of the advertisement, the words “Bob Schaffer” move across the screen.

10. Former Congressman Bob Schaffer is the Republican nominee for the United States Senate in the state of Colorado.

11. On the screen at the end of the advertisement is a written disclaimer: “Paid for U.S. Term Limits. U.S. Term Limits is responsible for the content of this advertising. Not authorized by any candidate or candidate’s committee. U.S. Term Limits does not endorse candidates for public office.” The organization’s Internet address, termlimits.org, appears at the top of the screen.

COUNT I

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

13. A public communication is “a communication by means of any broadcast, cable or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing or telephone bank to the general public, or any other form of general public political advertising.” 11 C.F.R. § 100.26.

14. A “clearly identified candidate” is one whose name, nickname, photograph or drawing appears, or whose identity is apparent through unambiguous reference. 11 C.F.R. § 100.17.

15. The Commission’s regulations define “expressly advocating” to include any communication that use phrases such as “Smith for Congress” or “Bill McKay in ’94.” 11 C.F.R. § 100.22(a).

16. FECA requires a person who makes independent expenditures aggregating \$10,000 or more at anytime up to the 20th day before the date of an election to file a report describing the expenditure with the Commission within 48 hours. 2 U.S.C. §434(g)(2)(A). Commission regulations specify that the report must be filed not later than “11:59 p.m. on the second day following the date on which a communication that constitutes an independent expenditure is publicly distributed.” 11 C.F.R. §109.10(c). Because the television advertisements were first aired on March 26, 2008, a report should have been filed with the Commission no later than 11:59 p.m. on March 28, 2008. No such report has been filed.

17. The television advertisement paid for by U.S. Term Limits is an independent expenditure that has not been reported to the Commission in violation of 2 U.S.C. §434(g)(2)(A) and 11 C.F.R. §109.10(c). The ad is a public communication because it has been airing on selected broadcast and cable television networks in Colorado since March 26, 2008. Bob Schaffer is a clearly identified candidate because his name is mentioned repeatedly in the audio portion of the ad, his name appears on the screen during the ad, and USTL labeled the ad “Bob Schaffer for Senate video” when it posted the ad on YouTube. See Exhibit A. By labeling the broadcast ad with the phrase “Bob Schaffer for Senate video,” and thereby expressly advocating the election of Mr. Schaffer, USTL revealed its intent to influence the Colorado election for U.S. Senate.

COUNT II

18. An independent expenditure in the form of a communication transmitted through television must include, in addition to the written disclaimer, an audio statement that “[the person paying for the communication] is responsible for the content of this advertising.” This audio statement must be conveyed by a representative of the person

paying for the communication either in an unobscured, full-screen view of the representative or in a voiceover. 2 U.S.C. § 441d(d)(2); 11 C.F.R. § 110.11(c)(4).

19. The television advertisement paid for by USTL violates 2 U.S.C. § 441d(d)(2) and 11 C.F.R. § 110.11(c)(4) because it does not include an audio statement that U.S. Term Limits is responsible for the content of the advertising.

CONCLUSION

WHEREFORE, Citizens for Responsibility and Ethics in Washington, Melanie Sloan and Doug Staggs request that the Federal Election Commission conduct an investigation into these allegations, declare the respondent to have violated the Federal Election Campaign Act and applicable FEC regulations, impose sanctions appropriate to these violations and take such further action as may be appropriate.

ON BEHALF OF COMPLAINANTS

Melanie Sloan
Executive Director
Citizens for Responsibility and Ethics in
Washington
1400 Eye St., NW, Suite 450
Washington, DC 20005
(202) 408-5565

Verification

Citizens for Responsibility and Ethics in Washington, acting through Melanie Sloan, hereby verifies that the statements made in the attached Complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

Melanie Sloan

Sworn to and subscribed before me this 9th day of April, 2008.