

FEDERAL ELECTION COMMISSION

In the matter of:

Turning Point Action  
Austin Smith, Field Director, Turning Point Action

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COMPLAINT

1. Citizens for Responsibility and Ethics in Washington (“CREW”) brings this complaint before the Federal Election Commission (“FEC” or “Commission”) seeking an immediate investigation and enforcement action against Turning Point Action and Austin Smith for direct and serious violations of the Federal Election Campaign Act (“FECA”).

2. The FECA requires anyone making more than \$250 in independent expenditures in a calendar year to disclose both (a) the identity of every person contributing more than \$200 to the reporting entity in that calendar year, and (b) the identity of every person who contributed more than \$200 in the calendar year for the purpose of furthering independent expenditures. A contribution is a donation made or solicited for the purpose of influencing a federal election.

3. According to its filings with the FEC, Turning Point Action made more than \$250 in independent expenditures in 2020—indeed it made more than \$1.4 million in independent expenditures—but it disclosed no contributors. The evidence shows, however, that Turning Point Action solicited and, on information and belief, received donations of more than \$200 for the purpose of influencing federal elections and additionally for the purpose of furthering Turning Point Action’s independent expenditures.

4. By failing to disclose the identities of these contributors, Turning Point Action violated the FECA. As a signatory on Turning Point Action’s independent expenditure reports

that omitted legally required information, Austin Smith also is liable for Turning Point Action's violations of law. Their actions deprive CREW and the public of information to which they are entitled by the FECA, and should be investigated.

### Complainants

5. 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 is dedicated to empowering voters 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.

6. 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, looks for correlations between spending on independent campaign activity that benefits a candidate and that member's subsequent official activities, and publicizes such correlations and 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 violators 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 campaign finance law.

7. In order to assess whether an individual, candidate, political committee, or other regulated entity is complying with federal campaign finance law, CREW needs the information contained in receipts and disbursements reports that political committees and others must file pursuant to the FECA, 52 U.S.C. § 30104; 11 C.F.R. §§ 104.1–22, 109.10. CREW is hindered in its programmatic activity when an individual, candidate, political committee, or other regulated entity fails to disclose or provides false campaign finance information in reports of receipts and disbursements required by the FECA.

8. 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, candidate, political committee, or other regulated 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.

#### Respondents

9. Turning Point Action is a tax-exempt organization established in 2013, organized under section 501(c)(4) of the Internal Revenue Code. Turning Point Action 2017 Form 990, <https://bit.ly/31soY1s>; Turning Point Action, FEC Form 5, 2020 Year End Report, Jan. 30, 2021, <https://bit.ly/2L8PfwV>; Turning Point Action, FEC Form 5, 2020 October Quarterly Report, Oct. 15, 2020, <https://bit.ly/2HkRF9L>. Turning Point Action is “the sister 501(c)(4) to Turning Point USA under the direction of founder and CEO Charlie Kirk.” Press Release, Turning Point Action, Turning Point Action Launches 2020 Expansion, Acquires ‘Students for Trump’, July 2,

2019, <https://bit.ly/3jgUvJR>. Turning Point USA, which is a tax-exempt charitable organization, had close ties to the Trump administration, and Kirk has been described as “one of President Donald Trump’s most influential advocates.” Mike Spies and Jake Pearson, At This Trump-Favored Charity, Financial Reporting is Questionable and Insiders Are Cashing In, *ProPublica*, July 21, 2020, <https://bit.ly/3o9AetD>.

10. Although Turning Point Action was first incorporated in 2013, the nonprofit was announced in 2019 to allow Kirk’s “organization to campaign against Democrats during the 2020 election season.” Turning Point Action, Corporation/LLC Search/Certificate of Good Standing, Illinois Secretary of State’s Office, <https://bit.ly/37q0Cth>; Brian Schwartz, Pro-Trump college GOP activist Charlie Kirk will launch a new group to target Democrats in 2020, *CNBC*, May 20, 2019, <https://cnb.cx/2Te2KvU>. On July 2, 2019, Turning Point Action announced that it was expanding ahead of 2020 with the acquisition of Students for Trump, which it said would be “the official chapter-based, pro-Trump student group on hundreds of college and high school campuses across America.” Press Release, Turning Point Action, Turning Point Action Launches 2020 Expansion, Acquires ‘Students for Trump’, July 2, 2019. In the press release, Kirk said his organization was “proud to be at the forefront of the youth movement to re-elect *freedom* in 2020 by adding one million new voters to support four more years of President Trump.” *Id.*

11. After the 2020 election, *Politico* reported that some Republican critics faulted the Trump campaign’s underwhelming performance with young voters on the alleged “outsourcing” by the president’s top aides of the campaign’s youth outreach to Turning Point Action. Gabby Orr, Blame game erupts over Trump’s decline in youth vote, *Politico*, Nov. 27, 2020, <http://politi.co/3ihVQkM>. According to *Politico*, Turning Point Action “oversaw myriad door-

knocking and grassroots get-out-the-vote efforts this cycle, in addition to working with top White House aides like senior adviser Jared Kushner to plan events that put the president and his surrogates in front of young audiences,” though “[p]eople involved with Kirk’s operation claimed his ‘herculean’ efforts to boost Trump’s reelection were done without input or resources from the Trump campaign.” *Id.*

12. Austin Smith is the field director of Turning Point Action and served in that role during the 2020 election cycle. Austin Smith, LinkedIn, <https://bit.ly/3dL7JNL>. Mr. Smith is also the chairman of the Maricopa County Young Republicans. *Id.* Mr. Smith is also the signatory on behalf of Turning Point Action when it has filed independent expenditure reports with the FEC. Turning Point Action, FEC Form 5, 2020 Year End Report, Jan. 30, 2021; Turning Point Action, FEC Form 5, 2020 October Quarterly Report, Oct. 15, 2020. Accordingly, Mr. Smith is liable for any errors or omissions contained in Turning Point Action’s FEC filing. Mr. Smith is named as a respondent in both his official and personal capacities.

#### Factual Allegations

##### Turning Point Action’s Independent Expenditures

13. Between August 20, 2020 and December 31, 2020, Turning Point Action spent approximately \$1,428,161 on independent expenditures in federal elections. Turning Point Action, FEC Form 5, 2020 Year End Report, Jan. 30, 2021; Turning Point Action, FEC Form 5, 2020 October Quarterly Report, Oct. 15, 2020. Turning Point Action’s independent expenditures included approximately \$1,042,721 for door hangers, advertising, yard signs, billboards, banners, and social media, either supporting President Trump or opposing his opponent, former Vice President Joe Biden. *Id.* Turning Point Action’s other independent expenditures supported

Tiffany Shedd in Arizona's first congressional district, supported then-Senators Kelly Loeffler and David Perdue in their Georgia Senate races, and opposed Jon Ossoff and Raphael Warnock in the same Georgia Senate races. *Id.*

14. Turning Point Action's earliest independent expenditure was made on August 20, 2020, when it paid \$27,926.25 for "advertising- Billboard/banner." Turning Point Action, FEC Form 5, 2020 October Quarterly Report, Oct. 15, 2020. On the same day, the *Navajo Times* reported on a billboard on Interstate 40 near Sanders, Arizona that proclaimed, "Navajos for Trump" and carried a disclaimer saying that it was "Paid for by Turning Point Action." Cindy Yurth, Who are 'Navajos for Trump'?, *Navajo Times*, Aug. 20, 2020, <https://bit.ly/2IUaEZp>. According to the *Navajo Times*, Turning Point Action's vendor, Rally Forge LLC, also "took out a half-page ad in the *Navajo Times* last week and also a banner ad on the *Navajo Times* website with the words 'Navajos for Trump' prominently displayed." *Id.* Turning Point Action also hosted a website that featured a picture of President Trump under a banner saying "Navajos for Trump" and declared that he was "the most pro-Native American President in U.S. history." Navajos for Trump, <https://bit.ly/3qBAaTV>.

15. A significant portion of Turning Point Action's independent expenditures in the 2020 election cycle was for online and social media advertising. Tracing Turning Point Action's reported independent expenditures is complicated, however, by the fact Turning Point Action used a common vendor, Rally Forge, for all of the organization's spending on social media. Turning Point Action, FEC Form 5, 2020 Year End Report, Jan. 30, 2021; Turning Point Action, FEC Form 5, 2020 October Quarterly Report, Oct. 15, 2020. Though Turning Point Action does not indicate what social media companies it paid Rally Forge to use, Facebook appears to have

been the recipient of at least some of those funds. According to the Center for Responsive Politics, as of March 18, 2021, Turning Point Action spent \$479,921 on Facebook advertising under four different page names since January 1, 2020: Turning Point Action, Students for Trump, Charlie Kirk, and Navajos for Trump. Turning Point Action, Online Political Advertiser Profile, Center for Responsive Politics, <http://bit.ly/3r04Dug>.<sup>1</sup>

16. For example, a Facebook ad that Turning Point Action ran from September 25, 2020 to October 19, 2020 stated, “We are less than 3 months away from Election Day! Support our door knocking army in their efforts to convince swing voters to join Team Trump.” Facebook, Ads from Turning Point Action, <https://bit.ly/37KhMBY>; Turning Point Action, Facebook Ad Sept. 25, - Oct. 19, ID: 749996045732663, Facebook, [<https://bit.ly/36lQjnQ>]; *see also* Turning Point Action, Facebook Ad Oct. 19 – Nov. 3, ID: 1184474231953991, Facebook, [<https://bit.ly/3okmivD>] (substantially similar version that ran from October 19 to November 3, 2020). The ad also features a picture of Kirk wearing a hat bearing President Trump’s campaign slogan, “Make America Great Again,” and holding a doorhanger stating “Vote for Donald Trump and Peter Meijer.” *Id.* Another ad run during that time period featured the same picture of Kirk along with text stating, “We need your support to beat Biden and Kamala Harris. Your contribution will helps [sic] us immensely expand our grassroots efforts.” Facebook, Ads from Turning Point Action; Turning Points Action, SEPT 25 – OCT 19, ID: 785001245667824,

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<sup>1</sup> In October 2020, Facebook permanently banned Rally Forge from its platform in relation to its work “on behalf” of Turning Point Action for what the social media company called “coordinated inauthentic behavior” through the use of fake accounts to comment on other people’s behavior on topics that included “criticism of the Democratic party and presidential candidate Joe Biden, and praise of President Trump and the Republican Party.” Isaac Stanley-Becker, [Facebook bans marketing firm running ‘troll farm’ for pro-Trump youth group](https://www.washingtonpost.com/technology/facebook-bans-marketing-firm-running-troll-farm-for-pro-trump-youth-group/2020/10/08/), *Washington Post*, Oct. 8, 2020, <https://wapo.st/3e85AMg>; Nathaniel Gleicher, [Removing Coordinated Inauthentic Behavior](https://www.facebook.com/naathanielgleicher/posts/10158844444444444), Facebook, Oct. 8, 2020, <https://bit.ly/34Ahiw3>.

Facebook, [<https://bit.ly/36kBou5>]; *see also* Turning Point Action, Oct. 19 – Nov. 4, ID: 987915331725429, Facebook, [<https://bit.ly/3omEAwj>] (identical version that ran from October 19 to November 4, 2020). In another example, Students for Trump paid for an ad that ran between September 29, 2020 and October 4, 2020 that promoted a “Super Saturday” event Turning Point Action was holding in Suwanee, Georgia on October 3, 2020. The ad featured a photo of President Trump and declared, “Help us deliver 1,000,000 new votes for President Trump!” Facebook, Ads from Students for Trump, [<https://bit.ly/3oLtliq>]; Students for Trump, Sept. 29 – Oct. 4, ID: 796221507843301, Facebook, [<https://bit.ly/3kis8eI>].

17. Students for Trump also ran a number of Facebook ads featuring videos juxtaposing what they claimed were the positions of a “Biden Voter” and the positions of a “Trump Voter,” introducing them with written text stating, “If you weren’t convinced as to why we MUST re-elect President Donald J. Trump, listen to this.” Facebook, Ads from Students for Trump; Students for Trump, Oct. 25 – Nov. 4, ID: 339459548724648, Facebook, [<http://bit.ly/3idF19g>]. Another Students for Trump Facebook ad that ran from November 3, 2020 through November 4, 2020 declared that “A vote for Democrats is a vote to hurt our police,” and closed by saying, “Vote for Trump.” Facebook, Ads from Students for Trump; Students for Trump, Nov. 3 – Nov. 4, ID: 665993730740776, Facebook, [<http://bit.ly/3qsa4lQ>].

18. Turning Point Action also paid for Google ads that advocated for the defeat of Joe Biden and the re-election of President Trump while soliciting contributions to support that work. For example, one Google ad that ran from October 30, 2020 through November 3, 2020 read: “Your donation will support Charlie Kirk’s grassroots door-knocking army to re-elect Trump. We need your help to defeat Biden and Kamala Harris.” Stop the Radical Left | Donate Here |



Charlie Kirk – Donate Here, Ad by TURNING POINT ACTION, Google Transparency Report, <http://bit.ly/2LoVPzH>. Another ad that ran over the same time period said, “We must work together to defeat Joe Biden and Kamala Harris. Help us reach critical swing voters by contributing today.” Turning Point Action | Support Our Door Knocking Army | Donate Now, Ad by TURNING POINT ACTION, Google Transparency Report, <http://bit.ly/38KMgnr>.

Turning Point Action’s Solicitations

19. Clicking on at least some of Turning Point Action’s ads took viewers to donation pages on Turning Point Action’s website explicitly soliciting support for the organization’s work to influence federal elections. In particular, the solicitations made clear contributions would be for the purpose of furthering Turning Point Action’s independent expenditures.

20. For instance, clicking on the Facebook ads leads to a page soliciting contributions ranging from \$5 to \$750 or more that would help Turning Point Action “reach critical swing voters” in order to “defeat Joe Biden and Kamala Harris.” Turning Point Action, Support Our Door Knocking Army, [https://getinvolved.tpaction.com/tp\\_don\\_om\\_fb\\_2e-gotv\\_di\\_2020-8-17-1?amount=15](https://getinvolved.tpaction.com/tp_don_om_fb_2e-gotv_di_2020-8-17-1?amount=15). The URL for the webpage suggests that it was first published on August 17, 2020, immediately before Turning Point Action began reporting independent expenditures to the FEC. *Id.*; Turning Point Action, FEC Form 5, 2020 October Quarterly Report, Oct. 15, 2020 (reporting first independent expenditure spending on August 20, 2020). Another Turning Point Action donation page, which has a URL suggesting it was first published on September 9, 2020, called on viewers to make a donation to “show your support for President Trump” and offered a “FREE yard sign with a \$20 donation or more.” Turning Point Action, Show Your Support for President Trump, [https://getinvolved.tpaction.com/tp\\_don\\_om\\_fb\\_ys-ri\\_di\\_2020-9-9](https://getinvolved.tpaction.com/tp_don_om_fb_ys-ri_di_2020-9-9). The donation page

offered yard signs featuring express advocacy such as “Trump Pence 2020,” “This House is Voting for Trump,” and “Vote Trump for Safe Communities.” *Id.*

21. Another Turning Point Action donation page, reached through a URL included in Turning Point Action’s Google ads that asked for donations to help Turning Point Action “re-elect Trump” or “defeat Joe Biden and Kamala Harris,” solicited contributions ranging from \$20.20 to \$10,000 or more and described Turning Point Action as “the #1 group educating, identifying and mobilizing Republican voters on college campuses across the country.” Stop the Radical Left | Donate Here | Charlie Kirk – Donate Here, Ad by TURNING POINT ACTION, Google Transparency Report; Turning Point Action | Support Our Door Knocking Army | Donate Now, Ad by TURNING POINT ACTION, Google Transparency Report; Turning Point Action, #1 Group, <https://bit.ly/3kjL8JO>. The solicitation asked donors to “make a contribution of any amount to help us win in 2020 and stop the Leftist indoctrination of young people.” *Id.* Unlike the donation pages cited above, the “#1 group” solicitation does not contain a date in its URL, but the Internet Archive’s Wayback Machine shows that Turning Point Action included text soliciting help “to win in 2020” as far back as October 11, 2019 and as recently as January 19, 2021. Internet Archive Wayback Machine, Turning Point Action, #1 Group, Oct. 11, 2019, <https://bit.ly/3prf3DY>; Internet Archive Wayback Machine, Turning Point Action, #1 Group, Jan. 19, 2021, <https://bit.ly/3qyJWp8>.

22. Some of Turning Point Action’s solicitation webpage disclaimers explicitly state that “[c]ontributions or gifts to Turning Point Action ... will be used in connection with federal elections.” Turning Point Action, Support Our Door Knocking Army; Turning Point Action, #1 Group. The disclaimers notify potential donors that due to federal law, Turning Point Action will

use its “best efforts to collect and report the name, mailing address, occupation, and name of employer of individuals whose contributions exceed \$200 in a calendar year.” *Id.* The disclaimer also appears to further reference federal election law by stating that “[c]ontributions from corporations, federal government contractors, national banks or foreign nationals or entities are prohibited” and that the “[u]se of the name and likeness of any candidate, officeholder or other individual is for the purpose of this group’s communication only and IN NO WAY indicates any authorization by, affiliation with, direction from, or endorsement by that person of any kind.” *Id.*

*Turning Point Action Reports No Contributors*

23. Despite these solicitations of financial support for the organization’s election advocacy work, Turning Point Action reported zero contributors when it reported its independent expenditures. Turning Point Action, FEC Form 5, 2020 Year End Report, Jan. 30, 2021; Turning Point Action, FEC Form 5, 2020 October Quarterly Report, Oct. 15, 2020.

24. The FEC sent Turning Point Action a request for additional information on February 9, 2021. Letter from Michael Dobi, Sr. Campaign Finance & Reviewing Analyst, FEC, to Turning Point Action (Feb. 9, 2021), <https://bit.ly/2M9xv1K>. The letter noted Turning Point Action’s October Quarterly Report included “no contributions” and informed Turning Point Action it must disclose anyone who contributed more than \$200 to the group. *Id.* Turning Point Action was required to respond on March 16, 2021.

25. Turning Point Action did not respond to the FEC’s letter by the March 16, 2021 deadline. Indeed, by the time of this complaint, Turning Point Action has not responded to the FEC’s letter.

Count I – Failure to Disclose Contributors under  
52 U.S.C. § 30104(b)(3)(A) and § 30104(c)(1)

26. The FECA requires anyone making more than \$250 in independent expenditures in a calendar year to disclose the identity of every person who contributed more than \$200 to the reporting entity that calendar year, with the date and amount of their contributions. 52 U.S.C. § 30104(b)(3)(A), (c)(1); *Citizens for Responsibility and Ethics in Washington (“CREW”) v. FEC*, 971 F.3d 340, 351 (D.C. Cir. 2020). A “contribution” is any donation made or solicited for the purpose of influencing a federal election. 52 U.S.C. § 30101(8)(A); 11 C.F.R. § 100.52(a); *see also CREW*, 971 F.3d at 345 (“contributions” include sums solicited to support electioneering); Conciliation Agreement, MURs 5511 and 5525 (Swiftboat Veterans) ¶¶ 18–22 (Dec. 13, 2006), <https://bit.ly/2M2ryXy> (finding funds received in response to solicitation were contributions where solicitation “reference[d]” a candidate’s campaign and “clearly indicated that the funds would be targeted for the defeat of Senator Kerry”).

27. Prior to September 17, 2018, an FEC regulation unlawfully limited the disclosure required of those making independent expenditures. *See* 11 C.F.R. § 109.10(e)(1)(vi). That regulation was vacated by court order. *Citizens for Responsibility and Ethics in Washington (“CREW”) v. FEC*, 316 F. Supp. 349 (D.D.C. 2018), *aff’d*, 971 F.3d 340 (D.C. Cir. 2020). On October 4, 2018, the FEC provided guidance on the effect of the order. FEC, FEC provides guidance following U.S. District Court decision in *CREW v. FEC*, 316 F. Supp. 3d 349 (D.D.C. 2018), Oct. 4, 2018, <http://bit.ly/3cwVPsg>. For independent expenditures made after September 18, 2018, the FEC stated it would “enforce the statute” and would require those making more

than \$250 in annual independent expenditures to “disclos[e] donors of over \$200 annually making contributions.”<sup>2</sup>

28. Turning Point Action made over \$250 in independent expenditures in 2020.

29. Specifically, Turning Point Action reported making at least \$1,428,161 in independent expenditures in federal elections in 2020. Turning Point Action, FEC Form 5, 2020 Year End Report, Jan. 30, 2021; Turning Point Action, FEC Form 5, 2020 October Quarterly Report, Oct. 15, 2020. By means of these independent expenditures, Turning Point Action expressly advocated for the election of Donald Trump for President in the 2020 federal general election and the defeat of Joe Biden in the same election, for the election of Tiffany Shedd in Arizona’s first congressional district, and for the election of then-Senators Kelly Loeffler and David Perdue and the defeat of Jon Ossoff and Raphael Warnock in the Georgia Senate races.

30. By reason of Turning Point Action’s independent expenditures, it is subject to the reporting obligations set out in 52 U.S.C. § 30104(b)(3)(a) and § 30104(c)(1).

31. Turning Point Action, however, did not report any contributors on either its 2020 October Quarterly Report or its 2020 Year End Report. Turning Point Action, FEC Form 5, 2020 Year End Report, Jan. 30, 2021; Turning Point Action, FEC Form 5, 2020 October Quarterly Report, Oct. 15, 2020.

32. Turning Point Action did not correct these omissions after the FEC notified it of its deficiency in a February 9, 2021 letter. Letter from Michael Dobi, <https://bit.ly/2M9xvIK>.

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<sup>2</sup> As discussed in Count II below, the FEC further stated it would require those making more than \$250 in independent expenditures to “identify those donors of over \$200 who contribute ‘for the purpose of furthering any independent expenditure.’” *Id.*

Indeed, Turning Point Action did not even respond to the FEC's letter by the deadline provided, and no response was submitted by the time of this complaint.

33. On information and belief, Turning Point Action received contributions in 2020 from sources who contributed in excess of \$200 to Turning Point Action that year.

34. Turning Point Action solicited donations for the purpose of influencing federal elections. For example, Turning Point Action solicited donations to "Support our door knocking army in their efforts to convince swing voters to join Team Trump." Facebook, Ads from Turning Point Action. That solicitation included the campaign slogan of President Trump's campaign, "Make American Great Again," and included a picture of the door hanger with the text "Vote for Donald Trump and Peter Meijer." *Id.*

35. Another solicitation featured the same picture of Kirk along with text stating, "We need your support to beat Biden and Kamala Harris. Your contribution will helps [sic] us immensely expand our grassroots efforts." Facebook, Ads from Turning Points Action.

36. Turning Point Action's Facebook solicitations, including the two referenced above, directed users to a webpage requesting contributions ranging from \$5 to \$750 or more to help Turning Point Action "reach critical swing voters" in order to "defeat Joe Biden and Kamala Harris." Turning Point Action, Support Our Door Knocking Army.

37. Another Turning Point Action donation page, which has a URL suggesting it was first published on September 9, 2020, called on viewers to make a donation to "show your support for President Trump" and offered a "FREE yard sign with a \$20 donation or more." Turning Point Action, Show Your Support for President Trump. The donation page offered yard

signs featuring express advocacy such as “Trump Pence 2020,” “This House is Voting for Trump,” and “Vote Trump for Safe Communities.” *Id.*

38. Yet another Turning Point Action donation page, reached by clicking on Turning Point Action’s Google ads which asked for donations to help Turning Point Action “re-elect Trump” or “defeat Joe Biden and Kamala Harris,” solicited contributions ranging from \$20.20 to \$10,000 or more. Stop the Radical Left | Donate Here | Charlie Kirk – Donate Here, Ad by TURNING POINT ACTION, Google Transparency Report; Turning Point Action | Support Our Door Knocking Army | Donate Now, Ad by TURNING POINT ACTION, Google Transparency Report; Turning Point Action, #1 Group. The page describes Turning Point Action as “the #1 group educating, identifying and mobilizing Republican voters on college campuses across the country.” *Id.* The solicitation asked donors to “make a contribution of any amount to help us win in 2020 and stop the Leftist indoctrination of young people.” *Id.*

39. Disclaimers on these three solicitation pages state that donations to Turning Point Action “will be used in connection with federal elections.” Additionally, the disclaimer states “Federal law requires [Turning Point Action] to use [its] best efforts to collect and report the name, mailing address, occupation, and name of employer of individuals whose contributions exceed \$200 in a calendar year.” *Id.*

40. The text and images Turning Point Action used for the solicitations demonstrate the purpose of any donation solicited would be to influence federal elections. Accordingly, any donation received by reason of these or similar solicitations is a contribution, and any source who contributed more than \$200 to Turning Point Action in response to these or similar solicitations must be reported to the FEC.

41. On information and belief, in response to these or substantially similar solicitations, Turning Point Action received contributions in 2020 from sources whose contributions to Turning Point Action exceed \$200 that year.

42. Accordingly, by failing to report on its 2020 Year End Report and its October Quarterly Report the identities of those sources who contributed more than \$200 in 2020 to Turning Point Action, Turning Point Action violated and continues to violate 52 U.S.C. § 30104(c)(1) and 52 U.S.C. § 30104(b)(3)(A).

Count II – Failure to Disclose Contributors Who Made Contributions for the Purpose of Furthering any Independent Expenditure under 52 U.S.C. § 30104(c)(2)(C)

43. The FECA further requires anyone making more than \$250 in independent expenditures per year to disclose the identity of their contributors who gave more than of \$200 for the purpose of furthering an independent expenditure. 52 U.S.C. § 30104(c)(2)(C); *CREW*, 971 F.3d at 351. As alleged above and incorporated herein, a “contribution” is any donation made or solicited for the purpose of influencing a federal election. 52 U.S.C. § 30101(8)(A); 11 C.F.R. § 100.52(a). A contribution is for the purpose of furthering an independent expenditure if made or solicited with the “inten[t] to support any [independent expenditure] made by the recipient.” *CREW*, 971 F.3d at 355.

44. As discussed above, prior to September 17, 2018, an FEC regulation unlawfully limited the disclosure required of those making independent expenditures. *See* 11 C.F.R. § 109.10(e)(1)(vi). After that regulation was vacated by court order, the FEC provided guidance on the effect of the court’s order. For independent expenditures made after September 18, 2018, the FEC stated it would “enforce the statute” and would require those making more than \$250 in annual independent expenditures to “identify those donors of over \$200 who contribute ‘for the



purpose of furthering an independent expenditure.” FEC, FEC provides guidance following U.S. District Court decision in *CREW v. FEC*, 316 F. Supp. 3d 349 (D.D.C. 2018), Oct. 4, 2018; see also *id.* (must disclose contributions “furthering any independent expenditure”).

45. As alleged above and incorporated herein, Turning Point Action made more than \$250 in independent expenditures in 2020. Specifically, Turning Point Action reported making at least \$1,428,161 in independent expenditures 2020.

46. Turning Point Action, however, reported no contributions in 2020 intended to further its independent expenditures on either its 2020 October Quarterly Report or its 2020 Year End Report. Turning Point Action, FEC Form 5, 2020 Year End Report, Jan. 30, 2021; Turning Point Action, FEC Form 5, 2020 October Quarterly Report, Oct. 15, 2020.

47. Turning Point Action did not correct these omissions after the FEC notified it of its deficiency in a February 9, 2021 letter. Letter from Michael Dobi, <https://bit.ly/2M9xvIK>. Indeed, Turning Point Action did not even respond to the FEC’s letter by the deadline provided, and no response was submitted by the time of this complaint.

48. On information and belief, Turning Point Action received contributions in 2020 for the purpose of furthering its independent expenditures from sources in excess of \$200.

49. As alleged above and incorporated herein, Turning Point Action maintained Facebook advertisements and webpages soliciting donations to support Turning Point Action’s independent expenditures. For example, one Facebook advertisement solicited donations to fund Turning Point Actions “door knocking army” and provided an image of example material to be distributed by the army: a door hanger stating, “Vote For Donald Trump and Peter Meijer.” Facebook, Ads from Turning Point Action. Another Facebook advertisement solicited funds for

“support to beat Biden and Kamala Harris” and included the same door knocker image with express advocacy. *Id.*

50. A donor donating in response to these solicitations would expect their donation would support Turning Point Action’s efforts to distribute door hangers with express advocacy supporting the election of federal candidates or similar independent expenditures by Turning Point Action.

51. On information and belief, Turning Point Action received donations in 2020 from sources in excess of \$200 in response to this or substantially similar solicitations.

52. Accordingly, by failing to report on its 2020 October Quarterly Report and its 2020 Year End Report the identities of those sources who contributed more than \$200 in 2020 to Turning Point Action to further the organization’s independent expenditures, Turning Point Action violated and continues to violate 52 U.S.C. § 30104(c)(2)(C).

Count III – Liability for Signing a False Report Filed With the FEC

53. At all relevant times, Austin Smith served as the national field director of Turning Point Action. Austin Smith, LinkedIn.

54. Mr. Smith signed Turning Point Action’s 2020 Year End Report and its 2020 October Quarterly Report with the FEC on behalf of Turning Point Action. Turning Point Action, FEC Form 5, 2020 Year End Report, Jan. 30, 2021; Turning Point Action, FEC Form 5, 2020 October Quarterly Report, Oct. 15, 2020. As a signatory, Mr. Smith signed Turning Point Action’s report under penalty of perjury and on notice that an error in the report would subject him to liability under the FECA. *Id.*

55. As alleged above and incorporated herein, Turning Point Action's 2020 October Quarterly Report and 2020 Year End Report omitted information Turning Point Action was required to report under the FECA.

56. By permitting Turning Point Action to file an erroneous form with the FEC and by reason of his signature on that form, Mr. Smith is personally liable for Turning Point Action's violations of 52 U.S.C. § 30104(c)(1), (c)(2)(C), and (b)(3)(A).

### CONCLUSION

WHEREFORE, Citizens for Responsibility and Ethics in Washington requests that the FEC conduct an expeditious investigation into these allegations; declare the respondents to have violated the FECA and applicable FEC regulations; and order respondents to correct these violations by providing to CREW and filing with the FEC reports identifying the sources who contributed in excess of \$200 to Turning Point Action in 2020 and to further identify which of those sources contributed to Turning Point Action in 2020 to further Turning Point Action's independent expenditures. In addition, the complainant requests 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.

*Noah Bookbinder*

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ON BEHALF OF COMPLAINANT  
Noah Bookbinder  
President  
Citizens for Responsibility and Ethics  
in Washington  
1101 K St. N.W., Suite 201  
Washington, D.C. 20005  
(202) 408-5565 (phone)  
(202) 588-5020 (fax)

Verification

Citizens for Responsibility and Ethics in Washington hereby verifies 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 22nd day of March, 2021

  
\_\_\_\_\_  
Notary Public

State of Commission: Virginia

County of Commission: Hampton

Notarized online using audio-video communication

	<p><b>Terrill Jenkins</b></p> <hr/> <p>REGISTRATION NUMBER 7901183 COMMISSION EXPIRES <b>December 31, 2024</b></p>
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