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MUR # 6643

OFFICE OF

COURT

Allen West For Congress  
735 S. Colorado Avenue  
Suite 9  
Stuart, FL 34994

September 6, 2012

Anthony Herman  
General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

**Re: Complaint Against Patriot Super PAC**

Dear Mr. Herman,

This complaint is filed pursuant to 2 U.S.C. § 437g(a)(1) by a representative of Allen West For Congress against Patriot Super PAC and its Treasurer, Thomas Frieling and Advisory Committee Chair and Director, Steve Elliot, for violations of 2 U.S.C. § 441h(b).

**Background**

Congressman West's campaign committee was recently made aware of a radio advertisement distributed by, and soliciting donations to, Patriot Super PAC (the "committee").<sup>1</sup> The radio advertisement exhorts listeners to "[A]ct now, because George Soros, Nancy Pelosi, and a former Bill Clinton aid are gunning for Congressman West, and the liberal super PACs will spend millions to defeat him."<sup>2</sup> Listeners are further solicited: "Show your support of Allen West now, visit [www.wesaluteallenwest.com](http://www.wesaluteallenwest.com) . . . [and again] visit [www.wesaluteallenwest.com](http://www.wesaluteallenwest.com) now to defend our Congressman."

The website twice mentioned in the radio ad, [www.wesaluteallenwest.com](http://www.wesaluteallenwest.com), automatically redirects the viewer to [www.patriotsuperpac.net/2951/offer.asp](http://www.patriotsuperpac.net/2951/offer.asp). (Attached as Exhibit A). This is a donation page where the solicitation continues,

<sup>1</sup> Patriot Super PAC's radio advertisement can be heard at <http://www.patriotsuperpac.net/2951/offer.asp> (accessed August 31, 2012).

<sup>2</sup> *Id.*

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**DONATE NOW TO SAVE ALLEN WEST.** Liberal Super PACs are unleashing millions of dollars to stop Allen West. Help Patriot Super PAC fight back. We're producing a radio ad next week. Please make a donation NOW to get the radio ad produced and aired. Allen West is a freedom fighter. Let's not lose Allen West!

Patriot Super PAC's solicitations containing Congressman West's name (or any of its other activities, for that matter) are not authorized by Congressman West, and Patriot Super PAC is in no way affiliated or associated with Congressman West's campaign committee.

### **Patriot Super PAC**

Patriot Super PAC is registered with the Commission as a nonconnected, independent expenditure only committee. The committee's Statement of Organization declares that it has no connected organization, affiliated committee, or joint fundraising representative. On its website, the committee proclaims its "Super PAC affiliations" with the following entities: Patriot Action Network, Union Label Blog, Grassfire Nation, and Hans Economics.

Patriot Super PAC's quarterly filings with the FEC show that nearly all of its contributions come from small dollar, unitemized contributors. The committee's July 2012 quarterly report shows year-to-date contributions of \$221,063.01. Of this total, \$180,701.01 is unitemized. Accordingly, the letter-writing process approved by the Commission in Advisory Opinion 1984-02 (Gramm) would have minimal effect here.

Virtually all of the funds that Patriot Super PAC raises are spent on "operating expenditures." The committee's July 2012 report includes a year-to-date total of \$139,323.64 in operating expenditures, but the committee claims a mere \$12,950 in independent expenditures. Patriot Super PAC reported \$5,000 spent on a radio advertisement in support of Allen West. Presumably, this is the same radio ad exhorting listeners to visit the donation page, [www.wesaluteallenwest.com](http://www.wesaluteallenwest.com).

The committee's July 2012 quarterly report shows multiple payments for credit card processing fees, travel, legal services, etc. Of note are the large and frequent payments for "fundraising," "consulting: political," "website services," and salaries of Treasurer, Thomas Frieling and Custodian of Records, Sally Perez. In other words, Patriot Super PAC spends the vast majority of its funds on fundraising, "political consulting," and salary. In fact, the combined salaries of Thomas Frieling and Sally Perez account for:

- 27% of total operating expenditures
- Nearly 1/4 of total disbursements
- Three times the amount spent on Independent expenditures
- 17% of total contributions received

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### Applicable Law

Under 2 U.S.C. § 441h(b), “No person shall – (1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or (2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).” The same language appears in the Commission’s regulations at 11 C.F.R. § 110.16(b).

As the Commission previously explained, “[s]ubsection (b) was intended to address the Commission’s inability under the pre-BCRA statute to pursue enforcement actions against persons or organizations not associated with a candidate who engage in fraudulent solicitation of funds.” Factual and Legal Analysis in MUR 5385 at 6 (Feb. 4, 2005). For years, the Commission requested an amendment to Section 441h “to prohibit fraudulent solicitation because contributions that people believed were going for the benefit of the candidate were diverted for other purposes, harming both the candidates and the contributors.” *Id.* at 8.

### Legal Analysis

Patriot Super PAC’s radio ad solicitation and the contribution webpage that listeners are repeatedly told to visit to “defend our Congressman” are intentionally designed to blur the line between Patriot Super PAC and Allen West’s own campaign committee, Allen West For Congress. These solicitations prey on civic-minded citizens who are led to believe that their contribution may actually be used in support of Allen West, and who presumably have no idea that Patriot Super PAC simply engages in an endless cycle of fundraising that ultimately pays for little more than the officer’s own fees and benefits.

In these solicitations, Patriot Super PAC very clearly presents itself as “acting for or on behalf of [a] candidate . . . for the purpose of soliciting contributions.” Patriot Super PAC claims to solicit funds so that it may *act for* Congressman West, *on behalf of* his re-election efforts.

Patriot Super PAC’s Treasurer, Thomas Frieling and Advisory Committee Chair and Director, Steve Elliot are also in violation of subsection (b) of the fraudulent misrepresentation statute. Both are sophisticated enough to be well aware that there is substantial profit to be made attaching themselves to Congressman West and claiming to act on his behalf and for his benefit.

The solicitations distributed by Patriot Super PAC are similar in nature to the materials at issue in MUR 5385 (Groundswell Voters PAC). In that matter, the Commission voted unanimously to find reason to believe that the respondent violated Section 441h(b) “by mailing a fundraising letter requesting contributions to fund a grassroots effort to benefit [Richard] Gephardt’s Presidential campaign.” Factual and Legal Analysis in MUR 5385 at 1. The

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respondent in MUR 5385 claimed that funds raised would be used "to help propel Dick Gephardt to the Democratic nomination and on to the Presidency in 2004." *Id.* at 2. In MUR 5385, the Commission concluded that the solicitations at issue "were misleading and could have led reasonable people to conclude that the Gephardt Committee authorized the communications or was involved in generating the fundraising solicitation." *Id.* at 8.

Here, Patriot Super PAC's radio ad instructs listeners to "[A]ct now, because George Soros, Nancy Pelosi, and a former Bill Clinton aid are gunning for Congressman West" and to "show your support of Allen West now, visit [www.wesaluteallenwest.com](http://www.wesaluteallenwest.com) . . . [and again] visit [www.wesaluteallenwest.com](http://www.wesaluteallenwest.com) now to defend our Congressman." The linked contribution page commands: "DONATE NOW TO SAVE ALLEN WEST." A reasonable person could easily conclude that language such as this indicates that the solicitation is either from Congressman West's campaign or that the solicitor is working with the West campaign. Neither is the case.

### Conclusion

Patriot Super PAC is a scam. With respect to the solicitations at issue in this Complaint, Patriot Super PAC and its officers seek to profit from the name and reputation of Congressman Allen West. Patriot Super PAC claims that funds raised will be used on Congressman West's behalf, to aid his reelection efforts, but the record clearly shows that Patriot Super PAC does virtually nothing other than fundraise and pay its own officers. Patriot Super PAC's activities are damaging not only to Congressman West, but also to the many individuals who contribute to Patriot Super PAC under the assumption that they are actually helping a candidate they support. Instead, they are being misled.

We ask that the Commission find a violation of 2 U.S.C. § 441h(b) and put an end to the Patriot Super PAC's fraudulent and unauthorized use of Congressman West's name.

Sincerely,



Tim Edson  
Campaign Manager  
Allen West For Congress

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The above and foregoing is sworn to, and is based upon information and belief of the undersigned, Tim Edson.

  
\_\_\_\_\_  
Tim Edson

**ACKNOWLEDGMENT**

STATE OF Florida )

: ss.

County of Martin )

On the 10 day of September, 2012, before me, the undersigned Notary Public, personally appeared Timothy Edson, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same.

IN WITNESS WHEREOF, I have set my hand and seal the day and year as above written.

  
\_\_\_\_\_

Notary Public

Commission Expires: \_\_\_\_\_



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## DONATE NOW TO SAVE ALLEN WEST!

Liberal Super PAC's are unleashing millions of dollars to stop Allen West. Help Patriot Super PAC fight back. We're producing a radio ad next week. Please make a donation NOW to get the radio ad produced and aired! Allen West is a freedom fighter. Let's not lose Allen West!



Allen West Radio Ad:

- \$20
- \$40
- \$80
- \$100
- \$250
- \$500
- \$1000
- \$0

\$0 Total Amount

Name:



Address:

City:

State:

Zip:

Country:

Email:

Phone Number:

\*Required

Employment: Federal law requires that we request the name, address, occupation and employer for the persons contributing more than \$200 in a calendar year. Please assist us by providing this information. If you are not employed, enter 'none' in the fields below.

Employer:

Occupation:

### Contribution Verification:

As an FECA Independent Super PAC, PSP is permitted to accept an unlimited amount of contributions from individuals, partnerships, corporations, and labor organizations. However, we must also verify other information before we are permitted to accept your contribution.

Please check this box to verify the following information is true and correct:

- A. The contribution is not being made by a foreign national or foreign corporation. If the contribution is made by an individual, the individual is a U.S. citizen or a permanent resident of the U.S.
- B. The contribution is not being made by a federal contractor.
- C. The funds used to make the contribution belong to the contributor and have not been provided to the contributor by any other person and will not be reimbursed to the contributor.

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1. THE WINNER MUST MAKE THE CONTRIBUTION IMMEDIATELY AFTER THE WINNING DRAWING provided to the contributor by any other person and will not be reimbursed to the contributor.

**Payment Options**

A) Click the button below marked "Submit" & you'll go to our SECURE BITE



B) Or **CLICK HERE** to pay by check



**Submit**

Paid for by Paid for Super PAC, a 501(c)(3) not-for-profit corporation, not authorized by any candidate or candidate's committee. Contributions are not deductible as charitable donations for federal income tax purposes.

Name	Amount	Contribution	Payment Method
Adrian M. ...	10,000.00	...	...
...	...	...	...
...	...	...	...

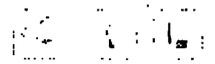
1. I understand that my contribution will be used to support the campaign of the candidate named above and that I will not be reimbursed for my contribution. I understand that my contribution is not deductible as a charitable contribution for federal income tax purposes.



**Patriot Super PAC**  
Liberty & Limited Government

*Beholden Only to the Constitution*

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## DONATE NOW TO SAVE ALLEN WEST!

Liberal Super PAC's are unleashing millions of dollars to stop Allen West. Help Patriot Super PAC fight back. We're producing a radio ad next week. Please make a donation NOW to get the radio ad produced and aired. Allen West is a freedom fighter. Let's not lose Allen West!



Allen West Radio Ad:

- \$20   
  \$40   
  \$50   
  \$100  
 \$250   
 \$500   
 \$1000   
 \$0

Total Amount

\*Name:

\*Address:

\*City:

\*State:

\*Zip:

\*Country

\*Email

Phone Number

\*Required

Employment: Federal law requires that we request the name, address, occupation and employer for those persons contributing more than \$200 in a calendar year. Please assist us by providing this

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information. If you are not employed, enter "none" in the fields below.

Employer\*

Occupation\*

**Contribution Verification\* :**

As an FECA independent Super PAC, PSP is permitted to accept an unlimited amount of contributions from individuals, partnerships, corporations, and labor organizations. However, we must also verify other information before we are permitted to accept your contribution.

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- A. The contribution is not being made by a foreign national or foreign corporation. If the contribution is made by an individual, the individual is a U. S. citizen or a permanent resident of the U.S.
- B. The contribution is not being made by a federal contractor.
- C. The funds used to make the contribution belong to the contributor and have not been provided to the contributor by any other person and will not be reimbursed to the contributor.

**Payment Options**

A) Click the button below marked "Submit" & you'll go to our SECURE SITE



B) Or [CLICK HERE](#) to pay by check



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**Contact Information**

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Ashburn, VA 20146

**Super PAC Affiliations**

[Patriot Action Network](#), [Union Label Blog](#), [Grassfire Nation](#), [Hans Economics](#)

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