

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

MUR # 10645 2012 SEP 12 11:10:38

OFFICE OF THE CLERK

August 30, 2012

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

Re: *Complaint Against The Conservative Strikeforce*

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 The Conservative Strikeforce, its Chairman, Dennis Whitfield, and its treasurer, Scott B. Mackenzie, for violations of 2 U.S.C. § 441h(b).

Background

On or about August 2, 2012, Congressman's West's campaign committee was provided with a copy of an email solicitation (attached as Exhibit A) distributed by "Conservative Strikeforce PAC," which is registered with the FEC as "The Conservative Strikeforce." This solicitation proclaims, "Allan [sic] West is in trouble and he needs our help!" The solicitation continues:

Please make an urgent donation of \$15, \$20, \$25, \$50, \$100, \$250 or whatever you can afford to help Conservative StrikeForce PAC's emergency campaign to re-elect Allan [sic] West.

This emergency effort will provide Congressman West with the additional campaign firepower he will need if he is to win a second term in Congress.

We are working overtime right now to assemble a top-notch voter contact and get-out-the vote program for his district.

Allan [sic] West is in trouble and he needs our help!

Our goal is to identify and turn out conservative voters and help this conservative champion survive this historic liberal onslaught.

[***]

That's why the Conservative StrikeForce is now moving into the race. Allan [sic] West is in for the fight of his political life and we need to help him.

Please make the most generous contribution you possibly can to help save Allan [sic] West.

Our goal is to run massive phone banks, send out mailings and run ads across the Congressman's district.

Conservative Strikeforce PAC Email Solicitation, attached as Exhibit A.

The solicitation is signed by Dennis Whitfield, as Chairman of "Conservative Strikeforce PAC."

The email solicitation contains a link to a website donation page (attached as Exhibit B) explaining that "Allen West is in trouble and he needs our help!" Visitors are urged to "Please make an urgent donation of \$15, \$20, \$25, \$50, \$100, \$250 or whatever you can afford to help Conservative StrikeForce PAC's emergency campaign to re-elect Allen West." The webpage does not contain any language indicating that Conservative Strikeforce is not affiliated or associated with, or endorsed by, Allen West, or that a contribution to Conservative Strikeforce is not a contribution to Allen West's campaign.

On or about August 21, 2012, we obtained a second email solicitation from Conservative Strikeforce featuring Congressman West (attached as Exhibit C). This solicitation is substantially similar to the first, but asks for "an urgent donation . . . to help Conservative Strike Force PAC pay for ads supporting Allen West," because "We need to save Allen West." According to this second email, "Our goal is to identify and turn out conservative voters and counter the massive left-wing operation that's been unleashed on Congressman West. . . . Allen West needs your help. This race is tied! . . . Make the most generous contribution you can. Just click here to help Allen West." Clicking through the email takes the viewer to the same webpage described above and attached as Exhibit B.

Conservative Strikeforce's solicitations containing Congressman West's name (or any of its other activities, for that matter) are not authorized by Congressman West, and Conservative Strikeforce is in no way affiliated or associated with Congressman West's campaign committee. Conservative Strikeforce is simply using Congressman West's name to raise funds.

Conservative Strikeforce

The Conservative Strikeforce is registered with the Commission as a non-connected political committee. The organization lists an address at 2776 S. Arlington Mill Drive, #806, Arlington, Virginia 22206.

Conservative Strikeforce's quarterly filings with the FEC show that the vast majority of its contributions come from small dollar, unitemized contributors. The committee's July 2012 quarterly report shows year-to-date contributions of \$1,635,718.92. Of this total, \$1,280,442.98 is unitemized. Accordingly, the letter-writing process approved by the Commission in Advisory Opinion 1984-02 (Gramm) would have minimal effect here.

Conservative Strikeforce's disbursements are limited almost exclusively to "operating expenditures." The group's July 2012 quarterly report shows year-to-date operating expenditures of \$1,582,763.38. The committee has contributed \$15,000 this year to federal candidates and committees. The organization reported approximately \$33,000 in independent expenditures made in connection with the Wisconsin recall election.

The organization's 2010 FEC reports show total operating expenditures of \$737,204.88, contributions to federal candidates and committees of \$60,100, and independent expenditures totaling \$32,098.82. In 2011, the organization received contributions of approximately \$1.2 million, spent \$1,145,727.11 on operating expenditures, contributed \$17,000 to federal candidates and committees, and spent \$3,700 on independent expenditures.

Virtually all of the group's reported disbursements go to operating expenditures that consist of "email fundraising," "direct mail," list rentals, telemarketing services, and consulting fees paid to the organization's Treasurer and Chairman. The group is simply a fundraising vehicle.

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 (Groundswell Voters PAC) 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

Conservative Strikeforce’s email solicitations and the linked contribution webpage are intentionally designed to blur the line between Conservative Strikeforce 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 Conservative Strikeforce engages primarily in fundraising that ultimately pays for little more than consulting fees.

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

The solicitations distributed by Conservative Strikeforce 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 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, Conservative Strikeforce’s email solicitation details an “emergency effort [that] will provide Congressman West with the additional campaign firepower he will need if he is to win a second term in Congress.” Conservative Strikeforce claims that it is “working overtime

right now to assemble a top-notch voter contact and get-out-the vote program for his district." Both the email solicitations and the group's webpage claim that "Allen West is in trouble and he needs our help!" 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

The Conservative Strikeforce seeks to profit from the name and reputation of Congressman Allen West. Conservative Strikeforce claims that funds raised will be used on Congressman West's behalf, to aid his reelection efforts, but the record strongly suggests that Conservative Strikeforce has done virtually nothing other than fundraise and pay its consultants. Conservative Strikeforce's activities are damaging not only to Congressman West, but also to the many individuals who contribute to Conservative Strikeforce under the assumption that they are actually helping a candidate they support. Instead, they are being fleeced.

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

Sincerely,



Tim Edson
Campaign Manager
Allen West For Congress

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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Subject: FW: Fwd: Save Allen West

Begin forwarded message:

From: "Newt 2012" <campaign@newt Gingrichforpresident.org>
Subject: Save Allen West
Date: August 2, 2012 9:06:21 AM EDT
To: [REDACTED]
Reply-To: campaign@newt Gingrichforpresident.org

Please find a special message from one of our advertisers, Conservative Strikeforce PAC. Please note that the following message reflects the opinions and representations of our advertiser alone, and not necessarily the opinion or editorial positions of the Newt 2012 campaign.

<image005.jpg>

Dear Patriot,

<image006.jpg> **The liberals just created a new George Soros-backed Super PAC. Its exclusive goal is to defeat conservative hero Allan West.**

This new Super PAC will spend millions and millions of dollars to defeat this one congressman.

Allan West is in trouble and he needs our help!

Please make an urgent donation of \$15, \$20, \$25, \$50, \$100, \$250 or whatever you can afford to help Conservative StrikeForce PAC's emergency campaign to re-elect Allan West.

This emergency effort will provide Congressman West with the additional campaign firepower he will need if he is to win a second term in Congress.

We are working overtime right now to assemble a top-notch voter contact and get-out-the vote program for his district.

Allan West is in trouble and he needs our help!

Our goal is to identify and turn out conservative voters and help this conservative champion survive this historic liberal onslaught.

<image007.jpg> **No other conservative Republican incumbent in America has to face anything like this.**

George Soros is funding this new PAC, named appropriately enough "Dump West," for the sole purpose of destroying one of the conservative movement's most articulate and principled spokesmen.

He is going to spend MILLIONS to smear Allan West with untrue negative ads. The liberals could spend more money in this campaign they have ever spent on a single

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Congressional contest.

That's why the Conservative StrikeForce is now moving into the race. Allan West is in for the fight of his political life and we need to help him.

Please make the most generous contribution you possibly can to help save Allan West.

Our goal is to run massive phone banks, send out mailings and run ads across the Congressman's district.

But we can't do any of this without you.

Let me be perfectly frank. We had not planned to target Allan West's district this fall.

Representative West is a great leader and a spectacular campaigner. We figured he wouldn't need our help.

Please help.

Please make the most generous contribution you possibly can to the Conservative Strike Force PAC right away.

Thank you in advance for your help.

<image008.jpg>

For America,
Dennis Whitfield
Chairman, *Conservative StrikeForce PAC*

Paid for by the Conservative Strikeforce PAC. Scott Mackenzie, Treasurer.
Not authorized by any candidate or candidates committee.
Contributions are not deductible as charitable contributions for federal income tax purposes.
[Click Here to unsubscribe.](#)

This message was intended for: [REDACTED]
You were added to the system June 22, 2012. For more information [click here](#).
[Update your preferences](#) | [Unsubscribe](#)

<image005.jpg>

<image009.jpg>

No virus found in this message.
Checked by AVG - www.avg.com
Version: 2012.0.2197 / Virus Database: 2437/5172 - Release Date: 08/02/12

Conservative StrikeForce PAC

- [Home Front Page](#)
- [AboutLearn More](#)
- [Priorities Goals This Cycle](#)
- [Chairman's Blog Conservative Insight](#)
- [DonateSupport the PAC](#)

- [Home » Save Allen West](#)

Save Allen West

Support Allen West!



The liberals just created a new George Soros-backed Super PAC. Its exclusive goal is to defeat conservative hero Allen West.

This new Super PAC will spend millions and millions of dollars to defeat this one congressman.

Allen West is in trouble and he needs our help!

Please make an urgent donation of \$15, \$20, \$25, \$50, \$100, \$250 or whatever you can afford to help Conservative StrikeForce PAC's emergency campaign to re-elect Allen West.

Select your donation amount

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\$10

\$250

\$25

\$500

\$50

\$1000

\$100

\$

Your Information

- **First Name**
First Name
- **Last Name**
Last Name
- **Email**
Email Address
- **Address**
Street Address
- **City**
City
- **State**
Select your State
- **Zip Code**
Zip Code (5 digits)

Employment Information

- **Employer**
Employer's Name
- **Occupation**
Your Occupation

Payment Method

- **Credit Card**
Credit Card Number
- **CVV2 Code**
CVV2 Code
- **Expiration**
Month

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Year

-

Contributions are not tax deductible for Federal Income Tax purposes.

Federal law requires us to use our 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.

© 2012 Conservative Strikeforce Political Action Committee
2776 South Arlington Mill Drive # 806, Arlington, VA 22206
Not Authorized by Any Candidate or Candidate Committee
[Click Here to Contact Conservative Strikeforce](#)

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Subject: FW: Help Buy Ads for Allen West

Begin forwarded message:

Resent-From: [REDACTED]
From: ConservativeStrikeforce.com <mailing@conservativestrikeforce.com>
Date: August 21, 2012 12:50:16 PM CDT
To: [REDACTED]
Subject: Help Buy Ads for Allen West
Reply-To: <mailing@conservativestrikeforce.com>

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Dear Patriot,

Congressman Allen West is under incredible attack. Barack Obama, Nancy Pelosi, and George Soros are all fighting tooth and nail to defeat this conservative superstar.

We need to fight back.

Please make an urgent donation of \$20, \$25, \$50, \$100, \$250 or whatever you can afford to help Conservative Strike Force PAC pay for ads supporting Allen West.

This race is going to be incredibly close. Allen West needs all the help he can get.

Allen West's liberal opponent, Patrick Murphy, has the momentum and has drawn even with West in the polls.

We need to save Allen West.



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Our goal is to raise \$43,671 over the next seventy-two hours to pay for our first wave of ads.

Murphy has raised an incredible \$500,000 in the latest quarter. He just released his first negative ad attacking Congressman West.

The Conservative StrikeForce PAC must get into this fight right away!

Please make the most generous contribution you possibly can.

Our goal is to identify and turn out conservative voters and counter the massive left-wing operation that's been unleashed on Congressman West.



And these first ads are a crucial part of our strategy to save this great conservative Congressman.

We need to remind Florida's voters that *Allen West has led the fight against ObamaCare.*

We need to show his constituents how *he is a leader in the fight against wasteful government spending.*

And we need to demonstrate in no uncertain terms that *Patrick Murphy will be a reliably liberal vote to elect Nancy Pelosi Speaker of the House!*

Please make the very most generous contribution you possibly can to pay for this ad campaign.

Allen West needs your help. This race is tied!

And for an incumbent Congressman, that is bad, bad news.

Allen West can't win this race on his own. He needs the conservative grassroots from across America to rally to his side.

That's where the Conservative StrikeForce PAC comes in. Our mission is to help good conservatives like Allen West win despite all the horrible negative attacks that Barack Obama and Nancy Pelosi throw at them.

This really is an emergency. We need to pay for this first round of advertising right away.

Make the most generous contribution you can. Just click here to help Allen West.

Thank you in advance for your generosity.



For America,

Dennis Whitfield
Chairman, *Conservative StrikeForce PAC*

Paid for by the Conservative Strikeforce PAC. Scott Mackenzie, Treasurer.
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[Click Here to unsubscribe](#)

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