

Baker Hostetler

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OFFICE

Baker & Hostetler LLP

Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036-8304

T 202.861.1500
F 202.861.1783
www.bakerlaw.com

October 8, 2012

Jeff S. Jordan
Supervisory Attorney
Complaints Examination &
Legal Administration
Attn: Kim Collins
General Counsel Office
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

E. Mark Braden
direct dial: 202.861.1504
MBraden@bakerlaw.com

Re: MUR 6645

Dear Ms. Collins:

The Federal Election Commission (Commission) received a complaint from Tim Edson, campaign manager for Allen West for Congress, alleging that the Conservative StrikeForce (StrikeForce) violated the Federal Election Campaign Act (Act). You have provided a copy of the complaint to the Committee Treasurer Scott Mackenzie. Baker & Hostetler has been retained to represent the StrikeForce and Mr. Mackenzie.

The Act and Commission regulations require that a person filing a complaint clearly recite facts setting forth specific violation of statutes and regulations under the Commission's jurisdictions. The Commission's complaint process provides for a brief period during which a respondent may initially respond to the complaint. This is the stage at which the Commission should dismiss complaints in a summary action if they fail to meet basic threshold requirements. If a complaint fails to allege facts showing specific violations of the Act, the matter should be dismissed without further action.

The sole allegation in the complainant is that StrikeForce has violated 2 U.S.C. § 441h(b). This provision provides that no person shall "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." It is clear from the website materials provided by Mr. Edson to the Commission that StrikeForce has not violated this provision. The solicitations which Mr. Edson chose to attach to his complaint specifically state repeatedly in their text that the solicitations are for the StrikeForce. They all contain a clear statement surrounded by box that ***the mailing was not authorized by any candidate or***

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candidate's committee. The introductory statement before this StrikeForce's web advertisement message identifies the PAC.

The solicitations chosen by Mr. Edson to support his complaint accurately state in their text that the organization is raising money to make contributions to Allen West's campaign and that the StrikeForce is anticipating making independent expenditures on West's behalf. The message talks about StrikeForce's actions, not the actions of the campaign, and never states that it is raising money as an agent for the Allen West's campaign. Federal law does not permit an agent to make independent expenditures.

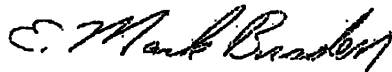
In 2010 election cycle, StrikeForce had contributed the maximum amount permitted under the Act to Mr. West's campaign. This fact can simply be confirmed by the examination of the Commission's records. In addition to its contributions to the West's 2010 campaign, StrikeForce also attempted to make a contribution to the retirement of prior 2008 West campaign debts.

This organization intends to do exactly what it says it will do in these messages to potential contributors -- support West congressional campaign with the maximum contributions permitted by a multi-candidate political committee. This organization has made plan to make independent expenditures on behalf of the West candidacy. From the documents provided to the Commission with Mr. Edson's complaint, it is clear that there is no violation of the Act. Based on these facts, the appropriate course is an immediate dismissal of this matter without further action.

I am enclosing with this letter an affidavit from Mr. Mackenzie, the StrikeForce's treasurer.

If you should have any questions in regard to this matter, please do not hesitate to contact me.

Sincerely,



E. Mark Braden

Enclosure

STATEMENT OF DESIGNATION OF COUNSEL

MUR: 6645

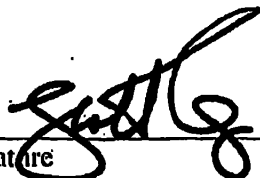
NAME OF COUNSEL: E. Mark Braden
FIRM: Baker & Hostetler, Counselors at Law
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304
TELEPHONE: (202) 861-1504
FAX: (202) 861-1783

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

10/11/2012

Date

Signature



RESPONDENT' NAME: Scott B. Mackenzie, Treasurer
The Conservative StrikeForce
ADDRESS: 2776 S. Arlington Mill Drive
Suite 806
Arlington, VA 22206

PHONE: BUSINESS 703-868-1776

Jeff S. Jordan
Supervisory Attorney
Complaints Examination &
Legal Administration
Attn: Kim Collins
General Counsel Office
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463



Re: MUR 6645

Dear Ms. Collins:

The Conservative StrikeForce PAC is in receipt of the complaint filed by Tim Edson, campaign manager for Allen West for Congress. The complaint makes a number of assertions, none of which, I believe, have any validity.

Background

The Conservative StrikeForce (hereinafter referred to as "PAC") is a Political Action Committee registered with the Federal Election Commission. The purpose of PAC is to raise funds and utilize those funds raised to support conservative candidates across the country. One of the candidate's supported by PAC is Allen West. In the 2010 election cycle, PAC made-out to Allen West for Congress (hereinafter referred to as "West") providing separate \$5,000 contributions to both his Primary and General Election campaigns. In 2012, PAC has plans to engage in a voter contact and get-out-the-vote Independent Expenditure (IE) effort for West.

Fraudulent misrepresentation of campaign authority

Mr. Edson (hereinafter referred to as "Edson") makes the outrageous assertion that PAC is in violation of 2 U.S.C. § 441h(b), which states that:

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).

Edson attempts to support his allegation by making the following claims:

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.

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.

Whereas PAC intends to make IEs on West's behalf it is therefore prohibited from getting the Congressman's authorization and affiliating its efforts with that of his campaign committee. And Edson, himself states that the solicitations in question contain the following provisos:

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 ...

That's why the Conservative StrikeForce is now moving into the race.

Clearly, this language indicates that PAC and not West is soliciting donations. Further, Edson alleges that prospective donors are not informed that the PAC's actions are separate from Mr. West's campaign. Yet in both of the email and webpage exhibits provided (Attachments A, B and C); the following disclaimer is displayed:

**Paid for by the Conservative Strikeforce PAC. Scott Mackenzie, Treasurer.
Not authorized by any candidate or candidates committee.**

As stated in the email solicitations, the Conservative StrikeForce plans to undertake a voter contact and get-out-the-vote program within Mr. West's Florida district. The PAC has not asked for authorization to do this, nor has it in any way tried to coordinate its efforts with those of the West campaign. Likewise, the email solicitations have informed the recipients that these efforts are "not authorized by any candidate or candidates committee."

Fundraising Vehicle

One of the more insulting statements made by Edson is that: "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."

Fundraising is expensive and getting more so every year. Conservative candidates and political action committees generally do not have the millionaire and billionaire donors that the Liberals possess (George Soros and Bill Maher being prime examples). Most conservative donors are retired Americans (World War II and Korean War generation), many are on a fixed income and do not have a lot of money to contribute but want to participate in the political process.

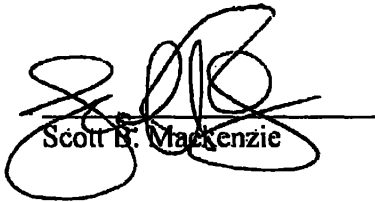
As campaign manager to West, Edson should understand this; particularly since the West donors reported in 2011 through the 2012 Pre-Primary reporting period show that 54% of the individual contributions raised by Mr. West are small, unitemized contributions. And when looking at just

one of those reports (October 2011 Disclosure Report); the West campaign disclosed Operating Expenditures of \$1,403,050 and of these \$937,896 were related to fundraising.

Mr. West is one of the most prominent conservatives in the country – if his fundraising costs are that high; how can those less well-known expect to fundraise for less?

Summary

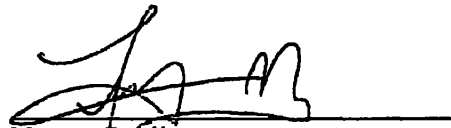
PAC has done everything required by law to properly inform its prospective donors as to the actions it intends to engage in (IEs for West); while leaving no doubt that PAC's activities are separate from those of West ("Not authorized by any candidate or candidates committee"). Finally, one might get the impression from Edson's complaint that most if not all of the funds raised by PAC were related to the solicitations in question, when in fact the amount raised through these emails represents approximately 5% of PAC's individual contributions.

By: 
Scott B. Mackenzie

Date: 10/5/2012

SUBSCRIBED AND SWORN TO BEFORE ME

This 5 day of October, 2012


Notary Public



FETEIH A. MOHAMMED
NOTARY PUBLIC 7523096
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES JUNE 30, 2016

My Commission Expires: June 30, 2016

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