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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

STEVE SCHONBERG)

7938 SE 12th Circle)

Ocala, FL 34480)

Phone #: 352-789-0610)

Plaintiff,)

v.)

JOHN BOEHNER, Individually, and as a Member)

of The U.S. House of Representatives,)

H-232 The Capitol)

Washington, D.C. 20515)

SECURITIES and EXCHANGE COMMISSION,)

100 F Street)

Washington, D.C. 20549)

FEDERAL ELECTION COMMISSION,)

999 E Street, NW)

Washington, DC 20463)

Defendants.)

Case: 1:11-cv-02139

Assigned To : Boasberg, James E.

Assign. Date : 11/30/2011

Description: Pro Se Gen. Civil

**COMPLAINT FOR DECLARATORY JUDGMENT,
UNJUST ENRICHMENT, AND DAMAGES. JURY DEMAND**

I. INTRODUCTION

1. Foremost in the minds of the Framers of our Constitution was the “Anti-Corruption Principle.”¹ The Judicial Branch of government has largely ignored the Framers’s basic precept requiring an honest congress.

2. The Supreme Court has ruled that corporations are “persons” who have a nearly

¹ See the law review by Zephyr Teachout at: <http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Teachout-Final.pdf>.

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unlimited right to influence members of congress with a shower of campaign gifts and electioneering support.

3. Congress is now so dishonest that it allows its members to conduct “insider trades” in the stock market that are unlawful for all other persons.

4. The democracy of the United States of America is collapsing and in need of an emergency infusion of the Anti-Corruption Principle.

5. A synopsis of this case is:

A. THE SEC

6. Plaintiff sold short \$164,060 worth of Wellpoint stock (NYSE ticker symbol “WLP”) on December 8-9, 2009.

7. Wellpoint, Inc. is a health insurance corporation.

8. On December 10, 2009 Defendant Boehner was the U.S. House of Representatives Minority Leader. On that date Defendant Boehner, intentionally, incredibly, unbelievably, and unbeknown to plaintiff, bought \$93,009-\$345,000 worth of healthcare stocks, including \$15,001-\$50,000 worth of Wellpoint.

9. Defendant Boehner’s stock purchases on December 10, 2009 were done in his individual capacity and not as a member of the U.S. House of Representatives.

10. Defendant Boehner’s Wellpoint trade took place one and two days after plaintiff’s Wellpoint trades.

11. On December 10, 2009, Defendant Boehner knew the expected outcome of the vote in congress on a “public option”² in the health insurance law he was immersed in opposing.

12. The House Minority Leader of the United States Was Personally Trading Stocks

² For a description of the “public option,” see: http://en.wikipedia.org/wiki/Public_option. If enacted, the public option would have made it difficult for Wellpoint to stay profitable.

While He Was Legislating the Value of the Very Same Stocks!!!

13. As a matter of law, Defendant Boehner's trades of healthcare stocks on December 10, 2009 were insider trades based on non-public, material information.

14. On December 10, 2009, Defendant Boehner knew the expected outcome of the vote in congress on a "public option."

15. On December 10, 2009 plaintiff did not know the expected outcome of the vote in congress on a "public option."

16. On December 10, 2009 the future value of Wellpoint shares, and the healthcare stocks in general, depended on the success or failure to include a "public option," in the proposed Patient Protection and Affordable Care Act, a/k/a "Obamacare, Pub.L. 111-148, 124 Stat. 119, (2010).

17. If enacted at the time, a public option would have decimated the share price of Wellpoint stock.

18. For all times material to this complaint, Defendant Boehner controlled the per share value of Wellpoint stock because he controlled the success or failure of the public option in Obamacare.

19. Defendant Boehner knew in advance of the general public that House Speaker Pelosi did not have the votes to include a public option in the Obamacare House bill without help from Defendant Boehner.

20. Defendant Boehner had the legislative power to defeat the public option.

21. Defendant Boehner, as the Minority Leader, controlled a large number of legislative votes in congress.

22. Defendant Boehner had insider information of and was personally responsible for the

defeat of the public option.

23. Defendant Boehner's defeat of the public option resulted in an enormous increase in value of the healthcare stocks that he purchased on December 10, 2009.

24. These trades resulted in unjust profits for Defendant Boehner and huge losses for plaintiff. Plaintiff covered his short position in Wellpoint on January 28, 2010 and lost \$32,580 dollars.

25. This action challenges the constitutionality of the Securities and Exchange Commission, ("SEC"), insider trading Rule 10b5.

26. The first premise of this lawsuit is that members of congress cannot constitutionally trade securities regulated by the SEC when the members possess insider information about the likely future price of the securities based on non-public information known only to members of congress.

27. This action challenges the constitutionality of insider trading by members of congress who can and do control the future value of stocks by their congressional action and inaction.

B. THE FEC

28. The Federal Election Commission (FEC) was created by the Federal Election Campaign Act, as amended in 1974, ("FECA"), 2 U.S.C. § 431 et seq. FECA legalized the bribery of members of congress by allowing corporations to give money to members of congress.

29. When Defendant Boehner invested in the healthcare industry stocks on December 10, 2009, he had received several hundred thousand dollars in bribes from the same health care corporations whose stock he purchased on that very day.

30. Defendant Boehner met with representatives of healthcare corporations, took money from those healthcare corporations, advocated positions in congress in support of those health

care corporations, and purchased the stock of those corporations.

31. The second premise of this lawsuit is that FECA unconstitutionally permits the bribery of members of Congress.

C. RICO

32. The third premise of this cause of action is that Defendant Boehner's conduct was in violation of the Racketeering Influenced and Corrupt Organizations Act, "RICO," enacted by section 901(a) of the Organized Crime Control Act of 1970 (Pub. L.91-452, 84 Stat. 922, (1970). 18 U.S.C. §1964³ allows for civil remedies as part of RICO.

33. Defendant Boehner controlled the per share price of Wellpoint stock between December 10, 2009 and January 28, 2010. He had received hundreds of thousands of dollars of bribes from healthcare corporations who were part of a criminal RICO organization. The purpose of the bribes was to increase the share value of stocks of healthcare corporations.

34. By causing the defeat in congress of the public option, Defendant Boehner, in multiple "quid pro quo" transactions, rewarded the healthcare corporations with an increase in the share price of the corporations' stock.

35. The conspiracy was simple: the healthcare corporations bribed Defendant Boehner in return for his defeat of the public option.

36. The healthcare corporations and Defendant Boehner engaged in a criminal conspiracy to increase the value of the healthcare corporations' stock.

37. The conspiracy did increase the value of the healthcare corporations stock and did increase the value of Defendant Boehner's investment in those stocks.

³ Because congress excluded their members from the insider trading rules of SEC Rule 10b5, plaintiff maintains that he has a RICO cause of action against Defendant Boehner and not an insider trading cause of action.

38. The public option was “dead” in congress on January 28, 2010, and Obamacare was a windfall to the Boehner-Healthcare Industry RICO Conspiracy.

39. By trading Wellpoint stock on December 10, 2009, after receiving bribes from Wellpoint in this conspiracy, Defendant Boehner’s misconduct was gross, intentional, illegal, and outrageous.

40. In the alternative, plaintiff has a fraud cause of action against Defendant Boehner based on SEC Rules.

D. UNJUST ENRICHMENT

41. Defendant Boehner’s purchase of Wellpoint stock on December 10, 2012 was unfair insider trading and resulted in unjust enrichment to Defendant Boehner at plaintiff’s expense.

42. Defendant Boehner controlled the share value of Wellpoint stock because he controlled the fate of the public option. Defendant Boehner’s control of the share value of Wellpoint stock resulted in Defendant Boehner’s unjust enrichment.

43. Defendant Boehner, after having been extensively bribed by the healthcare corporations, defeated the public option in congress.

44. Plaintiff should be compensated by Defendant Boehner for the losses resulting from plaintiff’s costly, unsuccessful, Wellpoint short sale investment.

E. THE CRIMINAL VIOLATION OF 18 U.S.C.§ 201

45. The bribes described above, given to Defendant Boehner, are a criminal violation of 18 U.S.C.§ 201.

46. FECA allows contributions to members of congress to affect the outcome of an election.

47. FECA does not allow bribes to members of congress to affect the outcome of specific

legislation.

48. FECA does not allow bribes to members of congress to influence an official act.

49. Defendant Boehner took bribes from healthcare corporations which influenced his official acts.

50. Defendant Boehner took bribes from healthcare corporations to defeat the public option in the health insurance bill he was deliberating upon in congress between December 10, 2009 and January 28, 2010.

51. Defendant Boehner had taken and took bribes from Wellpoint and other healthcare companies while he was deliberating the share-value fate of the same companies.

52. Defendant Boehner took bribes from the healthcare corporations he invested in on December 10, 2009, including Wellpoint.

53. Defendant Boehner, as Director of "The Freedom Project," bribed other members of congress to defeat the public option.

II. JURISDICTION AND VENUE

54. This Court has jurisdiction pursuant to 28 U.S.C. § 1331.

55. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e).

III. THE PARTIES

A. PLAINTIFF

56. Plaintiff is a citizen of the State of Florida, an occasional investor in the stock market, and a three-time litigant of the "Anti-Corruption Principle."⁴

⁴ See the law review by Zephyr Teachout at: <http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Teachout-Final.pdf>. Plaintiff's prior two cases were filed before he became aware of that law review. Plaintiff's other two cases can be found at: <http://fec.gov/law/litigation/schonberg.shtml>.

57. Politically, plaintiff is presently a democratic candidate for U.S. House seat FL-6. However, this lawsuit is not drawn on political party lines, since plaintiff's and defendants' party affiliations have nothing to do with the cause of action.

58. Plaintiff is bipartisan in his anti-corruption activities. Earlier this year plaintiff attempted to have a criminal complaint filed against U.S. Representative Chris Van Hollen, a democratic member of the "supercommittee," and a high ranking member of the Democratic Party.⁵

59. For the purposes of 2 U.S.C. §437h, plaintiff is an "individual eligible to vote in any election for the office of President."

B. DEFENDANT BOEHNER

60. Defendant Boehner is presently the Speaker of the U.S. House of Representatives.

61. Individually, Defendant Boehner is a very wealthy investor in the stock market.

62. Defendant Boehner is the Director and civil Officer of "The Freedom Project," his leadership Political Action Committee (PAC). Defendant Boehner is also the agent and civil Officer in charge of his campaign committee, "Friends of John Boehner."

63. Defendant Boehner is second in the presidential line of succession behind President Barack Obama.

C. DEFENDANTS SEC AND FEC

64. Defendant SEC regulates corporations whose stocks are publicly traded in the United States. The SEC has rule-making and enforcement authority to prevent insider trading as described in its rules, including Rule 10b5.

⁵Draft of criminal complaint posted at: http://schonbergforcongress.com/Chris_Van_Hollen_criminal_complaint.pdf. Plaintiff was referred by an Assistant U.S. Attorney in Maryland to an FBI agent who was emailed the draft. Plaintiff does not know the status of the investigation.

65. The definition of insider trading was enacted by congress. Since the SEC does not enact the laws defining insider trading, and because the SEC receives its funding from congress, the SEC is not independent of congress.

66. The SEC has never instituted an insider trading case against a member of congress for trading stocks based on information obtained as a member of congress.

67. Defendant FEC was created by FECA and regulates campaign contributions. Like the SEC, the FEC was created by congress and is also not independent of congress.

68. The funding of the FEC comes from congress, and the House of Representatives has oversight authority over the FEC.

IV. FACTS

69. Each of the above paragraphs is incorporated by reference as if fully set forth.

COUNT 1: SEC ISSUES

70. Unbridled corruption in congress plagues the People of the United States. **More than 90% of the People** now disapprove of the job performance of our legislative branch of government.

71. During the year 2009 a debate raged in congress over whether a new health insurance law should contain a “public option” similar to Medicare.

72. Then, as now, the United States was the only industrialized country in the world that permitted “for profit” health insurance companies. This is because the United States is also the only industrialized country in the world that allows “for profit” health insurance companies to bribe members of congress.

73. As the House Minority Leader in 2009 and early 2010, Defendant Boehner was instrumental in the defeat of the public option.

74. On December 10, 2009 Defendant Boehner, as the House Minority Leader, knew that the public option was “dead” and that publicly traded healthcare stocks were about to increase in value. Plaintiff did not know that on December 10, 2009.

75. Defendant Boehner also possessed insider information about health care industry stocks by virtue of his contact with lobbyists and members of the corporations in his campaign cash fund-raising activities.

76. On December 10, 2009 Defendant Boehner, as an individual investor, bought between \$1million and \$5million dollars worth of stocks regulated by the SEC.

77. On December 10, 2009 Defendant Boehner knew that his opposition to the public option would reward him with many thousands of dollars of profits from his stock investments if the public option were defeated in congress.

78. Wellpoint, Inc., is a publicly traded corporation which is in the for profit health insurance business. The following is a true statement:

“On December 10, 2009, Boehner bought numerous health insurance company stocks, including tens of thousands of dollars in Cardinal Health, Cigna, and Wellpoint. On the same day, Boehner purchased shares in the Big Pharma companies Amgen, Johnson & Johnson, Forest Labs, Covidien, and Pfizer. He also bought shares in CareFusion, which provides systems for countering infections. Just days later, on December 15, the Washington Post declared that the "public option" was officially dead.”⁶

⁶ Schweizer, Peter (2011-11-15). THROW THEM ALL OUT: HOW POLITICIANS AND THEIR FRIENDS GET RICH OFF INSIDER STOCK TIPS, LAND DEALS, AND CRONYISM THAT WOULD SEND THE REST OF US TO PRISON (Kindle Locations 528-532). Houghton Mifflin Harcourt. Kindle Edition. This book also demonstrated that defendant Boehner was not the only member of congress to engage in insider trading. Some of the others mentioned include: Spencer Bachus, Jim Moran, Shelly Capito, John Kerry, Nancy Pelosi, Dick Durbin, Jim Sensenbrenner, Jared Polis, Tom Carper, Vern Buchanan, and John Tanner.

79. By December 10, 2009, Wellpoint had paid \$34,350 in illegal bribes to Defendant Boehner.

80. On December 10, 2009 Defendant Boehner bought between \$15,001 and \$50,000 worth of shares in Wellpoint, Inc.⁷

81. Defendant Boehner signed his 2009 congressional Financial Disclosure Statement which said, “Report any purchase, sale, or exchange by you ...” (emphasis added).

82. Defendant Boehner’s insider information about the healthcare industry on December 10, 2009 is automatically imputed to the stockbrokers who actually made the stock transactions, if Defendant Boehner did not make the trades himself.

83. Any testimony Defendant Boehner and his stockbrokers might give on the December 10, 2009 stock purchases is irrelevant. Such irrelevant testimony would be the equivalent of the Chief Executive Officer⁸ of Wellpoint swearing to the SEC that her hypothetical same-day trades of Wellpoint stock were not insider trading because, “I have not made any decisions on day-to-day trading activities of my account and haven’t for years. I do not do it, haven’t done it and wouldn’t do it.”

84. Defendant Boehner bought a total of between \$93,009 and \$345,000 dollars worth of healthcare stocks on December 10, 2009.

⁷See EXHIBIT I, an excerpt from Defendant Boehner’s 2009 Financial Disclosure Statement posted at: http://perfectunion1787.com/EXHIBIT_I.pdf. The statement was filed on May 14, 2010. Plaintiff had no knowledge of Defendant Boehner’s Wellpoint stock purchase until a “60 Minutes” TV interview with Peter Schweizer was aired on November 13, 2011.

⁸The CEO of Wellpoint is Angela Braly. Her compensation package in 2009 was about \$13 million dollars. See: http://www.huffingtonpost.com/2010/04/02/angela-braly-wellpoint-ce_n_523824.html. In contrast, Kathleen Sebelius, the Secretary of Health and Human Services (and would-be “CEO” of the public option) has an annual salary of \$193,000.

85. On December 8-9, 2009, plaintiff sold short \$164,060 worth of Wellpoint stock.⁹ Had plaintiff known what Defendant Boehner knew about Wellpoint stock on those dates, he never would have made the short sale. Had plaintiff known what Defendant Boehner knew about Wellpoint stock on December 10, 2009, he would have covered his short sales on that day.

86. Plaintiff subsequently covered his short sales on January 28, 2010, paying \$196,640 to buy 3000 shares of Wellpoint.¹⁰ Plaintiff's losses in the Wellpoint transactions were \$32,580 dollars.

87. But for Defendant Boehner's December 10, 2009 failure to fully publicly disclose:

- A. All of his insider information about Wellpoint,
- B. All of his insider knowledge about congress and healthcare stocks,
- C. His stock purchase of between \$93,009 and \$345,000 dollars worth of healthcare stocks on December 10, 2009,

plaintiff would have covered his Wellpoint short sale on that day. And plaintiff probably would not have suffered his \$32,580 dollar Wellpoint loss on January 28, 2010.

88. On December 10, 2009, Defendant Boehner had a fiduciary duty to plaintiff and other investors in the U.S. stock markets to disclose:

- A. All of his insider information about Wellpoint,
- B. All of his insider knowledge about congress and healthcare stocks,
- C. His stock purchase of between \$93,009 and \$345,000 dollars worth of healthcare stocks on December 10, 2009.

⁹See EXHIBIT II, page 2, an excerpt from plaintiff's December, 2009 brokerage statement, posted at: http://perfectunion1787.com/EXHIBIT_II.pdf.

¹⁰See EXHIBIT II, page 4, at: http://perfectunion1787.com/EXHIBIT_II.pdf.

89. But for Defendant Boehner's illicit support of the health insurance industry, Wellpoint's share price would not have increased from \$55/share to \$65/share between December 10, 2009 and January 28, 2010.

90. Defendant Boehner had a fiduciary duty to plaintiff to disclose his insider knowledge of healthcare industry corporations when he traded their stocks on December 10, 2009.

91. On January 28, 2010, when plaintiff lost \$32,580 dollars in his Wellpoint investment, Defendant Boehner's position in Wellpoint had increased in value to between \$17,980 and \$59,929 dollars. Defendant Boehner's Wellpoint investment had increased in value by about 20% in a little over 6 weeks and plaintiff's Wellpoint investment lost by about the same percentage when the investment was closed out on January 28, 2010.

92. Defendant Boehner's huge investment in the healthcare industry stocks increased in value by about 20% between December 10, 2009 and January 28, 2010.

93. In all, Defendant Boehner traded between \$1 million and \$5 million dollars worth of stock based on insider information on December 10, 2009.

94. In the alternative, the SEC was negligent for failing to prevent Defendant Boehner from his insider trading of Wellpoint stock.

95. In the alternative, plaintiff has an SEC cause of action against Defendant Boehner based on fraud.

COUNT 2: FECA, RICO *and* SEC INTERRELATED ISSUES

96. Each of the above paragraphs is incorporated by reference as if fully set forth.

97. Prior to December 10, 2009 Defendant Boehner met with lobbyists and members of publicly traded healthcare corporations at least dozens of times as a member of congress. On December 10, 2009 Defendant Boehner possessed insider information about these corporations

which he received from the lobbyists and members of the corporations.

98. The sources of insider information possessed by Defendant Boehner on December 10, 2009 were both from the corporations, in fund-raising activities, and from his job as a congressman and as the House Minority Leader.

99. In a malicious effort to influence his official acts as a member of congress, the healthcare corporations whose stock Defendant Boehner purchased on December 10, 2009 bribed him with hundreds of thousands of dollars.¹¹

100. The effort was successful. In return Defendant Boehner's official acts as a member of congress and House Minority Leader were favorable to the corporations.

101. Although the conduct of Defendant Boehner was in violation of the bribery statute, 18 U.S.C. § 201, and the RICO statutes, the crimes have not been prosecuted by the U.S. Department of Justice.

102. With respect to RICO, Defendant Boehner engaged in a criminal organization by:

- A. Receiving millions of dollars of campaign cash bribes from corporations regulated by the SEC.
- B. Obtaining insider information from the same corporations and as a member of congress.
- C. Trading in the securities of the same corporations with insider information.
- D. Providing preferential treatment to the same corporations in his official acts as a member of congress.
- E. Wielding his enormous congressional political power to defeat the public option, increase the value of his investments in the healthcare industry, and

¹¹ See EXHIBIT III posted at: http://perfectunion1787.com/FECA_Bribes_Received.pdf.

increase the per share value of healthcare industry stocks which had bribed him and in which he had invested.

103. The healthcare corporations that bribed Defendant Boehner and whose stock Defendant Boehner purchased, comprise the RICO criminal organization.

COUNT 3: FECA ISSUES

104. Each of the above paragraphs is incorporated by reference as if fully set forth.

105. FECA, 2 U.S.C. § 431 et seq., is a sinister statute drafted by congress which created a culture of corruption by legalizing bribery of members of congress. These are some of the sections in play:

A. §441b (2)(C), allowing corporations to form political committees known as “PACs,”

B. §441b(2)(D), allowing PACs to solicit funds from shareholders and employees,

C. §432(e)(1), requiring a candidate for congress to designate a campaign committee,

D. §432(e)(2), causing members of congress to become the agents of their campaign committees, and

E. §441a(a)(2) authorizing corporate PACs to give campaign money to members of congress.

106. But for the bribery of members of congress allowed by FECA, Wellpoint stock would not have increased in value between December 10, 2009 and January 28, 2010.

107. Had congress wanted to limit campaign contributions through FECA without legalizing bribery, it could have easily done so by requiring the FEC to be the clearing house of

campaign contributions which would then be delivered to the candidates anonymously.

108. FECA does not prevent gifting, bribery, and influence peddling in congress. FECA permits and inspires corruption in congress.

109. Defendant Boehner is the civil Officer and Agent of “Friends of John Boehner,” his principal campaign committee. As the civil Officer and Agent, Defendant Boehner is acting under the Authority of the United States.

110. Defendant Boehner is the civil Officer and Director of “The Freedom Project,” his Leadership PAC. Through this PAC Defendant Boehner bribes other members of congress to influence their official acts.

111. Because Defendant Boehner influences the official acts of other members of congress as the head of his Leadership PAC, he is a civil Officer acting under the authority of the United States.

112. Just as Defendant Boehner was bribed by healthcare corporations, he bribed members of congress in violation of 18 U.S.C. §201.

113. One purpose of Defendant Boehner’s bribes of other members of congress was to defeat the public option.

114. Defendant Boehner used “The Freedom Project” and the “Friends of John Boehner” to defeat the public option and cause the share price of Wellpoint stock to rise by almost 20% between December 10, 2009 and January 28, 2010.

115. Defendant Boehner used his position as House Minority Leader to defeat the public option and cause the share price of Wellpoint stock to rise by almost 20% between December 10, 2009 and January 28, 2010.

116. Almost all corporate contributions given to the campaign committees of members of

congress are emoluments and bribes, given in an attempt to influence or induce.

117. Defendant Boehner both regulates corporations and accepts emoluments and bribes from the same corporations.

118. “Friends of John Boehner” and “The Freedom Project” are multi-million dollar cash funds which Defendant Boehner oversees in his duty as Agent, Director and civil Officer. Defendant Boehner can and does distribute the money in his campaign committee and leadership PAC pursuant to 2 U.S.C. §439a to increase his compensation.

119. By enacting 2 U.S.C. §439a congress allowed Defendant Boehner to use his campaign committee cash for lavish expenditures, e.g. luxurious suites and skyboxes at sporting events, golf tournaments at expensive resorts, dinners at exclusive restaurants, etc. This compensation is over and above the salary Defendant Boehner receives as a member of congress and Speaker of the House.

120. Each year Defendant Boehner receives thousands of dollars of compensation from his campaign committees just for food and beverages. It is commonplace for Defendant to treat himself to \$150 dinners at expensive restaurants and pay for his meal and beverages with campaign cash.

121. In the early part of 2009 “The Freedom Project,” put on a golf tournament which treated Defendant Boehner and his friends to \$31,400 of golf with all the “trimmings” at the Naples, Florida Ritz Carlton.¹²

122. The extra compensation received by members of congress comes mainly from bribes by corporations.

¹² From The Washington Post online, by Mary Ann Akers, June 24, 2009 at: http://voices.washingtonpost.com/sleuth/2009/06/boehner_drops_big_bucks_on_gol.html.

123. The amount of extra compensation Defendant Boehner receives from his campaign committees under the Authority of the United States varies from month to month, but he receives the extra compensation every month.

124. This extra compensation is provided to Defendant Boehner in his capacity as a civil Officer under the authority of the United States.

125. Most of Defendant Boehner's campaign committee cash comes to him from bribes given to him by the corporations he regulates in congress.

V. FECA IS UNCONSTITUTIONAL

A. APPOINTMENTS CLAUSE CLAIM

126. Article II, § 2, Clause 2 of the U.S. Constitution provides that, "... the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." This is the Appointments Clause. It is based on the Anti-Corruption Principle, which the Framers adopted in drafting the constitution, "[I]f we do not provide against corruption, our government will soon be at an end," George Mason said as the Constitutional Convention got under way.¹³

127. Because Congress does not have appointment power, it cannot appoint its members to act as Agents, Directors and civil Officers of their respective campaign committees and PACs. FECA at 2 U.S.C. §432, §434, §439, §439a, and §441i is therefore unconstitutional.

128. Through FECA, congress combined the power to create offices with the power to appoint members of congress as the office holders, which is a recipe for corruption forbidden by the Appointments Clause.

¹³ THE ANTI-CORRUPTION PRINCIPLE, Zephyr Teachout, *CORNELL LAW REVIEW*, 94:341,348,355. <http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Teachout-Final.pdf>

129. Plaintiff is harmed and damaged by this Constitutional violation.

130. But for this Appointments Clause Constitutional violation, Defendant Boehner and other members of congress would not have received the bribes which led to the increase in the share price of Wellpoint stock between December 10, 2009 and January 28, 2010.

B. COMPENSATION CLAUSE AND AMENDMENT XXVII CLAIMS

131. The Compensation Clause, Article I, Section 6, Clause 1 of the Constitution states, “The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States.”

132. Amendment XXVII to the Constitution limits increases to this compensation “until an election of Representatives shall have intervened.”

133. The Compensation Clause and Amendment XXVII are based on the Anti-Corruption Principle.

134. FECA violates the Compensation Clause and Amendment XXVII by:

- (a). Permitting members of congress to act as Agents, Directors and civil Officers of multimillion dollar campaign committees.
- (b). Allowing the campaign committees of members of congress to accumulate cash over decades and through multiple election cycles.
- (c). Sanctioning members of congress in their receipt of bribes and inside information from the corporations they regulate.
- (d). Providing members of congress compensation above their salaries for personal extravagances, such as golf tournaments, frequent dinners at expensive restaurants, and sporting event suites.
- (e). Enabling members of congress to use campaign funds for any purpose listed

in 2 U.S.C. §439a.

(f). Allowing members of congress to increase their compensation by insider trading in the securities of the corporations they both regulate and receive campaign cash from.

(g). Allowing members of congress to increase their compensation on a monthly basis with the use of campaign cash.

135. Plaintiff is harmed and damaged by these Constitutional violations.

136. But for these Compensation Clause and Amendment XXVII Constitutional violations, Defendant Boehner and other members of congress would not have received the bribes which led to the increase in the share price of Wellpoint stock between December 10, 2009 and January 28, 2010.

C. INELIGIBILITY AND EMOLUMENTS CLAUSE CLAIMS

137. Article I, Section 6, Clause 2, the “Ineligibility and Emoluments Clause” is an Anti-Corruption Principle clause.¹⁴ It states:

“No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.”

138. FECA unconstitutionally appoints members of congress to act as the agents of their campaign committees and the directors of their leadership PACs. This agency and director relationship is the same as a civil Officer under the Authority of the United States.

139. The primary Agent of a congressman’s campaign committee is the same as a

¹⁴ THE ANTI-CORRUPTION PRINCIPLE, Zephyr Teachout, *CORNELL LAW REVIEW*, 94:341,358-62. <http://www.lawschool.cornell.edu/research/cornell-law-review/upload/Teachout-Final.pdf>.


“Person holding any Office under the United States.”

140. The Director of a leadership PAC is the same as a “Person holding any Office under the United States.”

141. Defendant Boehner cannot constitutionally be both a member of congress and the holder of the civil Office of Agent of “Friends of John Boehner.”

142. Defendant Boehner cannot constitutionally be both a member of congress and the holder of the civil Office of Director of “The Freedom Project.”

143. By allowing members of congress to use campaign funds, “for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office,” FECA unconstitutionally commingled the office of Agent of a campaign committee with the office of a member of congress.



144. By allowing members of congress to use campaign funds, “for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office,” FECA unconstitutionally commingled the office of Director of a leadership PAC with the office of a member of Congress.

145. By allowing themselves to function as FECA agents and directors under the Authority of the United States, members of congress unconstitutionally created a civil Office for themselves through the enactment of FECA.

146. By allowing themselves to function as agents and directors under the Authority of the United States, members of congress unconstitutionally made themselves persons “holding any Office under the United States” through the enactment of FECA.

147. Plaintiff is harmed and damaged by these Constitutional violations.
But for these constitutional violations of the Ineligibility and Emoluments Clause, Defendant

Boehner and other members of congress would not have received the bribes which led to the increase in the share price of Wellpoint stock between December 10, 2009 and January 28, 2010.

VI. SEC RULE 10b5 IS UNCONSTITUTIONAL

148. Each and every paragraph above is incorporated by reference as if fully set forth.

A. APPOINTMENTS, INELIGIBILITY AND EMOLUMENTS CLAUSE CLAIMS

149. Members of congress routinely possess material, non-public information about the value of securities regulated by the SEC.

150. The non-public information comes from at least three sources: laws and rules that congress is about to enact, information obtained from U.S. government resources, and non-public information through direct contacts with corporations and their lobbyists.

151. All investors in securities regulated by the SEC are subject to the insider trading rules of the SEC, except one subset: members of congress.

152. Congress funds the SEC and defines insider trading.

153. Congress defined insider trading so that members of congress who trade on non-public information obtained as a member of congress were exempt.

154. By exempting themselves from insider trading, congress appointed its members to the civil Office of “Exempt Insider Trader,” although not named as such. Congress chose not to define its members as insider traders to hide the members’ insider trades and to avoid outrage by the People of the United States.

155. Holders of the civil Office of “Exempt Insider Trader” trade securities regulated by the SEC under the Authority of the United States.

156. Defendant Boehner held the civil Office of “Exempt Insider Trader” when he traded between \$1 million and \$5 million dollars of securities regulated by the SEC on December 10,

2009.

157. Members of congress cannot hold the civil Office of “Exempt Insider Trader” because it violates the Appointments, Ineligibility and Emoluments clauses of the Constitution. Pursuant to the Anti-Corruption Principle, SEC Rule 10b5 is therefore unconstitutional.

B. COMPENSATION CLAUSE AND AMENDMENT XXVII CLAIMS

157. By exempting themselves from the insider trading rules of the SEC, members of congress increased their compensation in violation of the Compensation Clause and Amendment XXVII. Pursuant to the Anti-Corruption Principle, SEC Rule 10b5 is therefore unconstitutional.

CONCLUSIONS

158. The Constitution of the United States was drafted to prevent corruption in congress. The actions of Defendant John Boehner described herein violate that principle and are unconstitutional. Defendant Boehner’s unconstitutional misconduct has, in fact, injured plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Immediately certify the above FECA claims of unconstitutionality to the United States Court of Appeals for the District of Columbia, sitting en banc, pursuant to 2 U.S.C. §437h. A Declaratory Judgment from the Court of Appeals is sought, ruling that FECA is unconstitutional.

B. Enter a Declaratory Judgment that insider trading by Defendant Boehner was unconstitutional.

C. Enter a Declaratory Judgment that Defendant Boehner’s acceptance of healthcare industry corporate bribes, his purchase of the stock in the same corporations that bribed him, and his defeat of the public option were a criminal violation of the RICO statute.

D. Enter a Declaratory Judgment that Defendant Boehner received bribes from healthcare corporations in violation of 18 U.S.C. § 201.

E. Enter a Declaratory Judgment that Defendant Boehner, through "The Freedom Project," bribed members of congress in violation of 18 U.S.C. § 201.

F. Award plaintiff treble damages in the amount of \$97,740 against Defendant Boehner.

G. Award plaintiff punitive damages against Defendant for his outrageous, gross, illegal, and intentional misconduct.

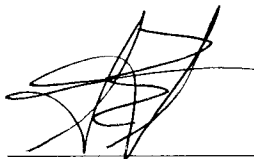
H. Enter an Order that Defendant Boehner pay all after-tax damages recoverable by plaintiff to 501(c) charities supporting the needy, at plaintiff's selection. Preference should be given to charities which have provided food to the needy nearby the Occupy Wall Street movement protests throughout the United States.

I. Award plaintiff the costs of this action.

J. Award plaintiff attorney fees if he is able to find an attorney to represent him.

K. Whatever other and further relief the Court deems just.

Respectfully Submitted,

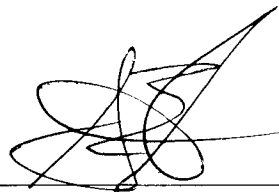


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JURY DEMAND

Pursuant to FRCP, Rule 38, plaintiff hereby demands a trial by jury regarding his RICO, fraud, 18 U.S.C. § 201, and unjust enrichment claims against Defendant John Boehner.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Steve Schonberg', is written over a horizontal line.

Steve Schonberg, Pro Se

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