

FEDERAL ELECTION COMMISSION

In the matter of: Peace through Strength PAC
Meredith Kelley, Treasurer

MUR No: _____

COMPLAINT

1. Citizens for Responsibility and Ethics in Washington (“CREW”) and Melanie Sloan bring this complaint before the Federal Election Commission (“FEC”) seeking an immediate investigation and enforcement action against Peace Through Strength Political Action Committee (“PTS PAC”) and Meredith Kelley, PTS PAC treasurer, for direct and serious violations of the Federal Election Campaign Act (“FECA”).

Complainants

2. Complainant CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to ensuring the integrity of government officials and to protecting the right of citizens to be informed about the activities of government officials. CREW seeks to empower citizens 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.

3. In furtherance of its mission, CREW educates 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 publicizes those who violate federal campaign finance laws. 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 exposing

unethical and illegal conduct of those involved in government and deterring future violations of campaign finance law.

4. Complainant Melanie Sloan is the executive director of Citizens for Responsibility and Ethics in Washington, a citizen of the United States and a registered voter and resident of the District of Columbia. Ms. Sloan is personally committed to ensuring the integrity of federal elections and the campaign finance requirements of the FECA. To that end, Ms. Sloan reviews campaign finance filings and media reports to determine whether candidates and political committees comply with requirements of the FECA. When Ms. Sloan discovers a violation of the FECA, she submits complaints against violators pursuant to her rights under the law. 2 U.S.C. § 437g(a)(1).

5. When CREW and Ms. Sloan file a complaint against a violator of the FECA, they rely on the FEC to strictly comply with the FECA when making its enforcement decisions because the FEC is the exclusive civil enforcement authority. See 2 U.S.C. § 437d(e). CREW and Ms. Sloan are injured if the FEC dismisses their complaints contrary to the FECA or otherwise acts contrary to the requirements of the FECA. 2 U.S.C. § 437g(a)(8)(C); See Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 410, (1971); See also Abbott Laboratories v. Gardner, 387 U.S. 136, 140 (1967) (“[J]udicial review of a final agency action by an aggrieved person will not be cut off unless there is persuasive reason to believe that such was the purpose of Congress.”).

Respondents

6. Duncan Hunter is the United States Representative representing the 52nd congressional district of California and a candidate for president of the United States.

PTS PAC is a federally registered political committee. Meredith Kelley is the treasurer of PTS PAC.

Factual Allegations

7. Beginning in October 2006, Rep. Hunter publicly announced his interest in running for president of the United States. Jim Davenport, Hunter Makes Presidential Bid Official, *Associated Press* (January 25, 2007) (attached as Exhibit A).

8. Between October 2006 and January 2007, Rep. Hunter traveled to the early primary states of New Hampshire, Iowa and South Carolina on behalf of PTS PAC. James W. Pindell, Hunter to visit N.H. for first time since announcing presidential ambitions, *The Boston Globe* (January 5, 2007) (attached as Exhibit B).

9. For the period from November 28, 2006 through December 31, 2006, PTS PAC reported receiving contributions from 11 individuals in excess of \$2,300. PTS PAC, FEC Form 3x, January 17, 2007 at 8-12 (attached as Exhibit C).

10. PTS PAC produced a television advertisement featuring Rep. Hunter that supports the construction of a fence along the United States-Mexico border. Duncan Hunter on the Border Fence (January 4, 2007), <http://www.youtube.com/watch?v=hNGCZ2LoYhU> (“the border fence advertisement”). PTS PAC’s website, www.peacethroughstrengthpac.com, is prominently displayed at the beginning and end of the advertisement. Id.

11. On December 14, 2006, PTS PAC paid the Rapid City, South Dakota television station KEVN \$1,000 for advertisement airtime. Exhibit C at 16.

12. On December 14, 2006, PTS PAC paid the Spartanburg, South Carolina television station WSPA \$4,998 for advertisement airtime. Id. at 19.

13. On December 14, 2006, December 19, 2006 and December 24, 2006, PTS PAC paid the Greenville, South Carolina television station WHNS a total of \$19,900 for advertisement airtime. Id. at 18-19.

14. On December 19, 2006, PTS PAC paid the Columbia, South Carolina television station WACH \$5,000 for advertisement airtime. Id. at 18.

15. On December 19, 2006, PTS PAC paid the Charleston, South Carolina television station WTAT \$5,005 for advertisement airtime. Id. at 20.

16. As of the date of this complaint, PTS PAC has reported disbursements to television stations only in South Carolina and South Dakota. See Exhibit C; See also supra ¶¶ 10-14.

17. According to media reports, the border fence advertisement began airing in Iowa, New Hampshire and South Carolina on December 19, 2006. Jessica Holzer, The 2008 ad blitz begins, *The Hill* (February 9, 2007) (attached as Exhibit D). A second advertisement focusing on Rep. Hunter's stance on trade policies with China began airing on an unknown date in South Carolina, North Carolina and South Dakota. Dana Wilkie, Hunting for votes in S.C., *The San Diego Union-Tribune* (February 26, 2007) (attached as Exhibit E). *The Hill* reported PTS PAC's activities as part of an unprecedented wave of "[p]residential campaign advertising." Exhibit D.

18. On January 8, 2007, Rep. Hunter established the Hunter for President Exploratory Committee. Hunter for President Exploratory Committee, FEC Form 1, January 8, 2007 (attached as Exhibit F). On January 25, 2007, Rep. Hunter registered Hunter for President as his principal campaign committee. Hunter for President, FEC Form 1, January 25, 2007 (attached as Exhibit G). In his announcement speech, Rep.

Hunter stated that he would lead with a policy of “peace through strength,” the same phrase that serves as PTS PAC’s name. See Exhibit A.

19. Following the formation of Hunter for President, PTS PAC paid the Manchester, New Hampshire television station WMUR a total of \$17,575 to broadcast the border fence advertisement. See James W. Pindell, Candidate used PAC funds for N.H. ads, *The Boston Globe* (February 27, 2007) (attached as Exhibit H).

20. At the time WMUR aired the border fence advertisement in February 2007, PTS PAC’s website directed readers to “please visit Duncan Hunter for President 2008,” and provided a direct hyperlink to Hunter for President’s website, www.gohunter08.com. See Exhibit H. PTS PAC has since removed the message and hyperlink from its website. PTS PAC, Home (March 12, 2007), <http://www.peacethroughstrengthpac.com/Home.aspx>.

21. PTS PAC reportedly paid for additional television advertisements during the week of February 11, 2007 in South Carolina, North Carolina and South Dakota. William Macklin, Romney touts business savvy in new presidential ads, *All Headline News* (February 20, 2007) (attached as Exhibit I).

22. On March 1, 2007, the FEC approved PTS PAC’s request to change its receipts and disbursements report filing frequency from monthly to quarterly. Letter from Patricia Carmona, Chief, Compliance Branch Reports Analysis Division, FEC to Meredith G. Kelley, Treasurer, PTS PAC (March 1, 2007) (attached as Exhibit J). Because quarterly filers report semi-annually in off-election years, PTS PAC’s next filing due date for receipts and disbursements is July 31, 2007. Id.

COUNT I

23. An individual who is determining whether to run for federal office must comply with FECA contribution limits for money received during the time the individual is “testing the waters.” 11 C.F.R. §§ 100.72 and 100.131. See also FEC, Campaign Guide for Congressional Candidates and Committees (May 2004) at 5 (“Funds raised to test the waters are subject to the Act’s contribution limits.”).

24. “Testing the waters” activities include, but are not limited to, “conducting a poll, telephone calls, and travel” for the purpose of determining whether to become a candidate. 11 C.F.R. §§ 100.72 and 100.131.

25. Rep. Hunter traveled extensively to early presidential primary states beginning in October 2006, using PTS PAC to “test the waters” for his presidential candidacy within the meaning of 11 C.F.R. § 100.72.

26. An individual “testing the waters” in the 2007-2008 election cycle may not receive a contribution from any individual in excess of \$2,300. 11 C.F.R. § 110.1(b)(1).

27. While supporting Rep. Hunter’s “testing the waters” efforts, PTS PAC received 11 individual contributions totaling \$52,650 that exceeded FECA’s \$2,300 individual contribution limit. See Exhibit C, pp. 8-12. Because PTS PAC knowingly accepted \$27,350 in excessive contributions, PTS PAC violated 2 U.S.C. § 441a(f).

COUNT II

28. When an individual begins to campaign or otherwise decides to become a candidate, the individual must register a candidate committee with the FEC. 11 C.F.R. § 100.72.

29. An individual is no longer “testing the waters,” and must, therefore, register a candidate committee with the FEC if the individual expends \$5,000 or more to purchase general public political advertising to publicize his or her intention to campaign for federal office. 11 C.F.R. § 100.72(b)(1).

30. Because PTS PAC expended over \$5,000 on advertisements that were designed to publicize Rep. Hunter’s intention to campaign for federal office by introducing him to early primary voters, PTS PAC was required to register with the FEC as the principal campaign committee for Rep. Hunter. 11 C.F.R. § 100.72(b)(1).

31. By failing to register as a candidate committee, PTS PAC violated 2 U.S.C. § 433(a).

COUNT III

32. Advertisements that promote a candidate are considered in-kind contributions to the candidate’s principal campaign committee and are subject to FECA contribution limits. See 11 C.F.R. § 100.52(d)(1).

33. The maximum legal contribution from a federally registered political committee to a candidate committee is \$5,000 per election. 2 U.S.C. § 441a(a)(2)(A); 11 C.F.R. § 110.2(b)(1). A contribution to a political committee that exceeds \$5,000 in a calendar year constitutes an illegal contribution. 2 U.S.C. § 441a(f).

34. PTS PAC’s alleged \$17,575 aggregate payment to WMUR to air the border fence advertisement constitutes an in-kind contribution to Hunter for President. 11 C.F.R. § 100.52(d)(1). Any payments PTS PAC may have made to air advertisements in South Carolina, North Carolina and South Dakota during the week of February 11, 2007 constitute in-kind contributions of an unknown amount.

35. PTS PAC's \$17,575 in-kind contribution to Hunter for President constitutes a \$12,275 excessive contribution in violation of 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 110.2(b)(1). PTS PAC's in-kind contributions to air advertisements in South Carolina, North Carolina and South Dakota are excessive contributions of an unknown amount in violation of 2 U.S.C. § 441a(a)(2)(A) and 11 C.F.R. § 110.2(b)(1).

COUNT IV

36. Political committees are required to report to the FEC the name and address of each person to whom it makes disbursements over \$200. 11 C.F.R. §§ 104.3(b) and 104.9(a).

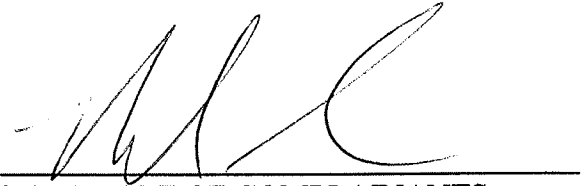
37. To the extent PTS PAC failed to report disbursements for television advertisements aired in Iowa and New Hampshire in December 2006, PTS PAC violated 11 C.F.R. §§ 104.3(b) and 104.9(a).

PRAYER FOR RELIEF

WHEREFORE, Citizens for Responsibility and Ethics in Washington and Melanie Sloan request that the Federal Election Commission conduct an investigation into these allegations, declare the respondents to have violated federal campaign finance laws, impose sanctions appropriate to these violations, require PTS PAC to amend its registration to a joint fundraising committee with Hunter for President, require PTS PAC to raise all contributions as a candidate committee and take such further action, as may be appropriate.

Further, because press reports indicate that Rep. Hunter may still be purchasing air time for advertisements promoting his candidacy, see e.g. Exhibit I, but the entity paying for any such advertisements will remain unidentified until PTSPAC files its next

report on July 31, 2007, complainants further request that the Federal Election Commission expedite consideration of the complaint due to the potential continuing nature of the violations.

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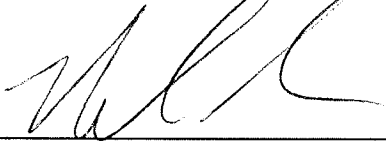
ON BEHALF OF COMPLAINANTS

Melanie Sloan
Executive Director
Citizens for Responsibility and Ethics in
Washington
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Washington, DC 20005
(202) 408-5565

Verification

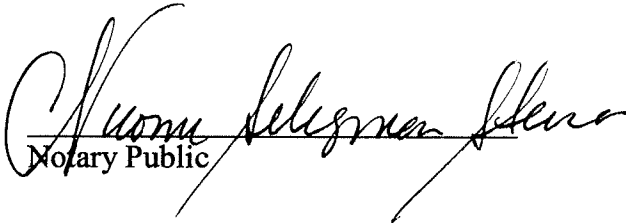
Citizens for Responsibility and Ethics in Washington, acting through Melanie Sloan, hereby verifies that the statements made in the attached Complaint are, upon information and belief, true.

Sworn pursuant to 18 U.S.C. § 1001.

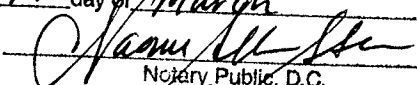


Melanie Sloan

Sworn to and subscribed before me this 14th day of March, 2007.



Notary Public

District of Columbia: SS
Subscribed and sworn to before me, in my presence,
this 14 day of March, 2007

Notary Public, D.C.
My commission expires June 30, 2011