BEFORE THE UNITED STATES
FEDERAL ELECTION COMMISSION

Campaign Legal Center
215 E Street, NE
Washington, DC 20002
(202) 736-2200

Democracy 21
2000 Massachusetts Avenue, NW
Washington, DC 20036
(202) 355-9600

v. MUR No. _____

Make Us Great Again, Inc.
P.O. Box 3956
Washington, DC 20027

RickPerry.org, Inc.
P.O. Box 12726
Austin, TX 78711

COMPLAINT

1. This complaint is filed pursuant to 2 U.S.C. § 437g(a)(1) and is based on information and belief that Make Us Great Again, Inc. ("Make Us Great Again"), an independent expenditure-only committee, made an in-kind contribution to RickPerry.org, Inc. ("RickPerry.org"), and that RickPerry.org accepted an in-kind contribution from Make Us Great Again, in violation of provisions of the Federal Election Campaign Act ("FECA"), 2 U.S.C. § 431, *et seq.*, and Commission regulations.

2. Specifically, based on published reports, complainants have reason to believe that Make Us Great Again produced video footage of presidential candidate Rick Perry and gave that video footage to Perry's principal campaign committee RickPerry.org "without charge or at a charge that [was] less than the usual and normal charge for such goods or services,"

rendering this gift of video footage a "contribution" from Make Us Great Again to RickPerry.org under 2 U.S.C. § 431(8)(A)(i) and 11 C.F.R. § 100.52(a), (d).

3. As an independent expenditure-only committee, Make Us Great Again is prohibited from contributing to RickPerry.org. *See* Ad. Op. 2010-11 (Commonsense Ten). Furthermore, federal law prohibits any person from making contributions exceeding $2,500 to a candidate's authorized political committee and prohibits candidates and their political committees from accepting any contribution in violation of federal campaign finance laws. *See* 2 U.S.C. § 441a(a)(1)(A); 11 C.F.R. §§ 110.1(b) and 110.9.[1]

4. "If the Commission, upon receiving a complaint . . . has reason to believe that a person has committed, or is about to commit, a violation of [the FECA] . . . [t]he Commission shall make an investigation of such alleged violation . . . ." 2 U.S.C. § 437g(a)(2); *see also* 11 C.F.R. § 111.4(a) (emphasis added).

BACKGROUND

5. On November 26, Politico reported: "In its Thanksgiving video, the [Perry] campaign uses two clips from an [*sic*] slickly produced advertisement aired on Perry's behalf by Make Us Great Again, a SuperPAC run by a longtime Perry associate, Mike Toomey."[2] The article was later updated to note a third clip that first appeared in the Make Us Great Again ad and then later appeared in the RickPerry.org ad.[3]

---

1 *See also* FEC, *Contribution Limits for 2011-2012* (consumer price index adjustments to statutory limits), *available at* http://www.fec.gov/info/contriblimits1112.pdf.

2 Ben Smith, *Perry Ad Features SuperPAC Footage*, POLITICO, Nov. 26, 2011, *available at* http://www.politico.com/blogs/bensmith/1111/Perry_ad_features_SuprPAC_footage.html.

3 *Id.*

6. The Politico website article includes as embedded videos both the Make Us Great Again ad and the RickPerry.org ad and notes identical video footage used at :10, :24 and :25 of the Make Us Great Again ad and at 2:11, 1:35 and 1:31, respectively, of the RickPerry.org ad.[4]

7. The Houston Chronicle reported this story on November 28, again noting that the two ads "use the same raw video footage from a Perry campaign event."[5]

"CONTRIBUTION" UNDER FEDERAL LAW

8. FECA defines "contribution" to include "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office[.]" 2 U.S.C. § 431(8)(A)(1) (emphasis added).

9. Commission regulations incorporate the statutory definition of "contribution," 11 C.F.R. § 100.52(a), and further clarify that the term "anything of value" includes all in-kind contributions and that "the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services is a contribution." *Id.* at 100.52(d)(1).

10. Based on published reports, complainants have reason to believe that Make Us Great Again made one or more "contributions," as defined by 2 U.S.C. § 431(8)(A)(1) and 11 C.F.R. §§ 100.52(a) and (d)(1), to RickPerry.org by providing video footage to RickPerry.org without charge or at a charge that was less than the usual and normal charge for such goods.

---

4 *Id.*

5 Joe Holley, *Pair of Perry Ads Test Limits of the Election Law*, HOUSTON CHRONICLE, Nov. 28, 2011, *available at* http://blog.chron.com/rickperry/2011/11/pair-of-perry-ads-test-limits-of-the-election-law/.

PROHIBITION ON CONTRIBUTIONS BY INDEPENDENT EXPENDITURE-ONLY COMMITTEES

11. In Advisory Opinion 2010-11 (Commonsense Ten), the Commission interpreted and applied court decisions in *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc) and *Citizens United v. FEC*, 130 S. Ct. 876 (2010), and opined that a committee that "intends to make only independent expenditures" and that "will not make any monetary or in-kind contributions (including coordinated communications) to any other political committee or organization" is permitted to solicit and accept unlimited contributions from individuals, corporations, labor organizations and other political committees. Ad. Op. 2010-11 at 2-3.

12. The Commission included as "Attachment A" to Advisory Opinion 2010-11 a form letter to be used by such newly-sanctioned "independent expenditure-only" committees when registering with the Commission. The form letter indicates the committee's intention to raise unlimited funds and states: "This committee will not use those funds to make contributions, whether direct, in-kind, or via coordinated communications, to federal candidates or committees."

13. Make Us Great Again registered with the Commission as an independent expenditure-only committee, stating in a letter to the Commission dated July 27, 2011 and attached to its Statement of Organization that it would not use its funds "to make contributions, whether direct, in-kind, or via coordinated communications, to federal candidates or committees."

14. Based on published reports, complainants have reason to believe that Make Us Great Again violated the requirement that it not "make contributions, whether direct, in-kind, or via coordinated communications, to federal candidates" by making one or more "contributions," as defined by 2 U.S.C. § 431(8)(A)(1) and 11 C.F.R. §§ 100.52(a) and

(d)(1), to RickPerry.org by providing video footage to RickPerry.org without charge or at a charge that was less than the usual and normal charge for such goods.

15. Based on published reports, complainants have reason to believe that RickPerry.org violated the requirement that it not accept any contribution in violation of federal campaign finance laws, *see* 11 C.F.R. § 110.9, by accepting video footage from Make Us Great Again without paying the usual and normal charge for such goods.

CANDIDATE CONTRIBUTION LIMITS AND PROHIBITIONS

16. FECA prohibits any person from making contributions exceeding $2,500 to a candidate's authorized political committee in the 2011-12 election cycle. *See* 2 U.S.C. §§ 441a(a)(1)(A) and 441a(c) ($2,000 limit adjusted for changes in the consumer price index);[6] *see also* 11 C.F.R. § 110.1(b).[7]

17. Commission regulations prohibit candidates and their political committees from accepting any contribution in violation of federal campaign finance laws. *See* 11 C.F.R. § 110.9.

18. Based on published reports, complainants have reason to believe that, if the "usual and normal charge" of video clips like those contributed by Make Us Great Again to RickPerry.org exceeds $2,500, RickPerry.org violated federal campaign finance law by accepting a contribution from Make Us Great Again in excess of the contribution limit established by 2 U.S.C. § 441a(a)(1)(A). *See also* 11 C.F.R. §§ 100.52(a), (d)(1) and 110.9.

---

[6] *See also* FEC, *Contribution Limits for 2011-2012* (consumer price index adjustments to statutory limits), *available at* http://www.fec.gov/info/contriblimits1112.pdf.

[7] Although FECA permits a "multicandidate political committee" to contribute up to $5,000 per election to a candidate, an independent expenditure-only committee, by definition, is not a multicandidate political committee. Multicandidate political committees must make contributions to five or more federal candidates, while independent expenditure-only committees are prohibited from contributing to candidates. *See* 2 U.S.C. 441a(a)(2), (4).

19. Based on published reports, complainants have reason to believe that, if the "usual and normal charge" of video clips like those contributed by Make Us Great Again to RickPerry.org exceeds $2,500, Make Us Great Again violated federal campaign finance law by making a contribution to RickPerry.org in excess of the contribution limit established by 2 U.S.C. § 441a(a)(1)(A).

PRAYER FOR RELIEF

20. Wherefore, the Commission should find reason to believe that Make Us Great Again and RickPerry.org have violated 2 U.S.C. § 431 *et seq.*, including 2 U.S.C. § 441a, and conduct an immediate investigation under 2 U.S.C. § 437g(a)(2). Further, the Commission should determine and impose appropriate sanctions for any and all violations, should enjoin the respondents from any and all violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with the FECA.

December 14, 2011

Respectfully submitted,

Campaign Legal Center, by
J. Gerald Hebert
215 E Street, NE
Washington, DC 20002
(202) 736-2200

Democracy 21, by
Fred Wertheimer
2000 Massachusetts Avenue, NW
Washington, DC 20036
(202) 355-9600

Paul S. Ryan
The Campaign Legal Center
215 E Street, NE
Washington, DC 20002

Counsel to the Campaign Legal Center

Donald J. Simon
Sonosky, Chambers, Sachse
Endreson & Perry LLP
1425 K Street, NW – Suite 600
Washington, DC 20005

Counsel to Democracy 21

VERIFICATION

The complainants listed below hereby verify that the statements made in the attached Complaint are, upon their information and belief, true.

Sworn to pursuant to 18 U.S.C. § 1001.

For Complainant Campaign Legal Center

J. Gerald Hebert

Sworn to and subscribed before me this 14 day of December, 2011.

Sharon Brunton
Notary Public

SHARON BRUNTON
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires May 31, 2013

For Complainant Democracy 21

Fred Wertheimer

Sworn to and subscribed before me this 14 day of December, 2011.

Sharon Brunton
Notary Public

SHARON BRUNTON
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires May 31, 2013