

BEFORE THE
FEDERAL ELECTION COMMISSION

Democracy 21
1875 I Street, NW, Suite 500
Washington, DC 20006
202-429-2008

Campaign Legal Center
1640 Rhode Island Ave. NW, Suite 650
Washington, DC 20036
202-736-2200

v.

MUR No. _____

The Lantern Project
1735 Market Street, Suite 425A
Philadelphia, Pa 19103

Softer Voices
P.O. Box 3588
Washington, DC 20007

COMPLAINT

1. In March, 2002, Congress enacted the Bipartisan Campaign Reform Act of 2002 (BCRA) in order to stop the raising and spending of soft money to influence federal elections. The soft money provisions of BCRA were upheld by the Supreme Court in *McConnell v. FEC*, 540 U.S. 93 (2003).

2. Since the enactment of BCRA, a number of political and party operatives have been engaged in illegal schemes to use soft money to influence federal elections, through the use of so-called “section 527 groups” — entities registered as “political organizations” under section 527 of the Internal Revenue Code (IRC), 26 U.S.C. § 527. These illegal schemes took place in

the 2004 federal elections and, in the absence of any effective enforcement of the law by the Commission, are again taking place in the 2006 federal elections.

3. The Supreme Court in *McConnell* took specific note of “the hard lesson of circumvention” that is taught “by the entire history of campaign finance regulation.” 540 U.S. at 165. The deployment of “section 527 groups” as a new vehicle for using soft money to pay for partisan activities to influence federal elections is simply the latest chapter in the long history of efforts to evade and violate the federal campaign finance laws.

4. The Lantern Project and Softer Voices are each registered with the IRS as a section 527 group and are each *not* registered with the Commission as a political committee. However, both groups are, in fact, federal political committees. Each group is an entity which, as a 527 group, has a “major purpose” to influence candidate elections, and more specifically, federal candidate elections, and which has spent significant amounts of funds to influence the 2006 congressional elections. These “political committees” are therefore required to register with the Commission under the federal campaign finance laws, and are subject to the federal contribution limits, source prohibitions and reporting requirements on the funds they receive. As a political committee, each of these groups may not receive more than \$5,000 per year from an individual donor, and may not receive any union or corporate treasury funds whatsoever. 2 U.S.C. § 441a(a)(1)(C), 441b(a). These limits and prohibitions apply to all “political committees,” including those that engage in independent spending. 11 C.F.R. § 110.1(n). Furthermore, as political committees, each of these groups is required to file periodic reports with the Commission, disclosing all receipts and disbursements. 2 U.S.C. § 434.

5. The Supreme Court in *McConnell* took specific – and repeated – note of the central role of the Federal Election Commission in improperly creating the soft money loophole

that was used by federal candidates and political parties to circumvent the federal campaign finance laws. The massive flow of soft money through the political parties into federal elections was made possible by the Commission's allocation rules, which the Court described as "FEC regulations [that] permitted more than Congress, in enacting FECA, had ever intended." 540 U.S. at 142 n.44. Indeed, the Court noted that the existing Federal Election Campaign Act (FECA), which had been upheld in *Buckley*, "was *subverted* by the creation of the FEC's allocation regime" which allowed the parties "to use vast amounts of soft money in their efforts to elect federal candidates." *Id.* (emphasis added). The Court flatly stated that the Commission's rules "invited widespread circumvention" of the law. *Id.* at 145.

6. It is critically important that the Commission not repeat this history here. The Commission must ensure that it does not once again subvert and invite "widespread circumvention" of the law by licensing the spending of massive amounts of soft money to influence federal elections, this time through section 527 groups whose major purpose is to influence federal elections.

7. The Commission has the authority to take enforcement action based on a complaint where it finds reason to believe that a person "has committed, or is about to commit," a violation of the law. 2 U.S.C. §§ 437g(a)(2), 437g(a)(4)(A)(i), 437g(a)(6)(A); *see also* 11 C.F.R. § 111.4(a) ("Any person who believes that a violation...has occurred *or is about to occur* may file a complaint....") (emphasis added). Based on published reports, the named respondents here have committed violations of the law by raising and spending significant amounts of soft money — including large individual contributions — to influence the 2006 congressional elections. The respondents are doing so without registering as federal political committees and without complying with the rules applicable to such political committees. The Commission has

a responsibility and obligation to act expeditiously to prevent the violations of the law that are occurring and that are threatened by the widely publicized activities of these section 527 groups.

The Lantern Project

8. The Lantern Project was established on January 10, 2005 as a “political organization” under section 527 of the Internal Revenue Code, 26 U.S.C. § 527.¹

9. The Lantern Project has made clear that its major purpose is to influence the Pennsylvania senatorial race in the 2006 congressional elections and defeat Senator Rick Santorum (R-PA), who is running for re-election.

10. The URL for The Lantern Project’s Web site is www.santorumexposed.com. According to the group’s Web site, “We believe that Rick Santorum has failed to use his position as a U.S. Senator to improve the lives of most Americans, and **our mission here is simple: To shine a light on the facts about Rick Santorum’s extreme positions, failed policies and hypocritical statements — and let the facts speak for themselves.**”²

11. The Lantern Project’s Web site is focused exclusively on Senator Santorum, featuring videos, articles and editorials attacking Santorum.

12. The Web site features a section titled “Santorum on the Issues” which attacks Senator Santorum’s position on issues such as social security, medical malpractice, minimum wage, education and stem cell research.³

13. According to Forms 8872 filed with the IRS and electioneering communication reports (Form 9) filed with the FEC, The Lantern Project has raised at least

¹ A copy of its Form 8871, Notice of Section 527 Status, filed with the IRS, is attached as Exhibit A.

² A printout of the Web site’s homepage is attached as Exhibit B (Emphasis in original).

³ See <http://santorumexposed.com/index.php>. (Last Accessed: 10/03/06).

\$1,670,050 and has made disbursements of at least \$1,459,310, during the period from July 1, 2005 to October 10, 2006.⁴ According to the Forms 8872, the Lantern Project has received contributions of \$250,000 from SEIU, a labor organization,⁵ \$100,000 from Lewis Cullman, \$100,000 from Bob Sillerman, \$100,000 from Tim Gill, \$100,000 from Peter Lewis, \$50,000 from the law firm of Berger & Montague (as well as additional \$25,000 contributions each from partners Daniel Berger and H. Laddie Montague Jr.), \$35,000 from John Hunting, \$25,000 from the Laborers Political League Education Fund, a labor organization, \$50,000 (in two contributions) from Local 1776 United Food and Commercial Workers, a labor organization, and an additional \$25,000 from United Food and Commercial Workers International Union.

14. According to information on the group's Web site, The Lantern Project has funded eight TV ads, one Internet ad and one radio ad, each of which refer to and attack Senator Santorum. One of the TV ads, titled "Lobbyists," states, "Rick Santorum's committees accepted more money from lobbyists last year than any other member of Congress. No wonder Santorum voted to give billions in special tax breaks to oil companies. What was he thinking?"⁶

15. Another TV ad, titled "Security," states, "Rick Santorum is working with George Bush to privatize social security, eliminating the guaranteed benefit for seniors and putting your retirement security at risk. What is he thinking?"⁷

⁴ Forms 8872 filed with the IRS and electioneering communication reports filed with the FEC (FEC Form 9) are attached as Exhibit C. (There are no Forms 8872 available on the IRS Web site for the period from January 1, 2005 to June 30, 2005.)

⁵ This amount was contributed on November 9, 2005 (\$100,000) and March 22, 2006 (\$150,000).

⁶ A clip of the ad titled "Lobbyists," is available at <http://www.santorumexposed.com/pages/video/lobbyists.php> (Last Accessed: 10/03/06).

⁷ A clip of the ad titled "Security," is available at <http://www.santorumexposed.com/pages/video/securityad.php> (Last Accessed: 10/03/06).

16. Another TV ad, titled “Overtime,” states “It’s hard to make ends meet. But Rick Santorum wants to let businesses eliminate overtime pay for millions of Americans. Even if they work for more than 40 hours a week. What is he thinking?”⁸

17. Another TV ad, titled “Sides,” states, “From privatizing social security to cutting student loans for the middle class, when Rick Santorum has to choose between siding with George Bush, or middle class Pennsylvanians, Santorum supports Bush. What is he thinking?”⁹

Softer Voices

18. “Softer Voices” was established on July 15, 2004 as a “political organization” under section 527 of the Internal Revenue Code, 26 U.S.C. § 527.¹⁰

19. Softer Voices has made clear that its major purpose in this election cycle is to influence the 2006 Pennsylvania senatorial race by promoting or supporting Senator Rick Santorum (R-PA) and attacking or opposing his Democratic challenger, State Treasurer Bob Casey.

20. According to Forms 8872 filed with the IRS, Softer Voices has raised \$975,000, during the period from July 1, 2005 to September 30, 2006. The total amount was raised from six donors whose contributions ranged from \$25,000 to \$400,000.¹¹

⁸ A clip of the ad titled “Overtime,” is available at <http://www.santorumexposed.com/pages/video/overtime.php> (Last Accessed: 10/03/06).

⁹ A clip of the ad titled “Sides,” is available at <http://www.santorumexposed.com/pages/video/sides.php>. (Last Accessed: 10/03/06).

¹⁰ A copy of its Form 8871, Notice of Section 527 Status, filed with the IRS, is attached as Exhibit D.

¹¹ Copies of the Forms 8872 filed with the IRS are attached as Exhibit E. There are no reports available on the IRS Web site for the period from January 1, 2005 to June 30, 2005.

21. According to the IRS reports, Dr. John Templeton contributed \$400,000 to Softer Voices. According to an October 2, 2006 article in the *New York Sun*, “Dr. Templeton has given about \$1 million in the past four years to the College Republican National Committee and has supported other conservative causes, including groups that pilloried Senator Kerry in the 2004 presidential campaign, Progress for America and Swift Boat Veterans for Truth.”¹²

22. The *New York Sun* article notes, “Under federal law, Mr. Templeton . . . cannot donate to American political campaigns. The Tennessee native renounced his American citizenship in 1968 and moved to the Bahamas in a bid to avoid taxes on the several billion dollars he reportedly made from his investment empire.”¹³

23. According to IRS Reports, contributions to Softer Voices also include \$250,000 from Foster Friess, \$150,000 from Carl Lindner, \$100,000 from Rob Arkley, \$50,000 from Richard DeVos and \$25,000 from Frank J. Hanna III.

24. According to a *Philadelphia Inquirer* article (October 3, 2006) Lisa Schiffren, a co-founder of Softer Voices, stated about efforts by 527 groups, “Of course, it is a way around campaign finance law.”¹⁴ According to *The Philadelphia Inquirer* article, “five wealthy conservatives” donated “as much as they legally could to Santorum’s campaign—and then gave thousands more to Softer Voices”¹⁵

¹² J. Gerstein, “Political Group Shells Out \$1M to Boost Santorum’s Popularity With Women,” *The New York Sun* (October 2, 2006) (Exhibit F).

¹³ *Id.*

¹⁴ C. Budoff, “Soft money playing hardball in Pa.,” *The Philadelphia Inquirer* (October 3, 2006) (Exhibit G).

¹⁵ *Id.*

25. According to the Form 8872 IRS reports, Softer Voices has made disbursements of \$918,241, during the period from July 1, 2005 to September 30, 2006, with all of the disbursements reported as being made during the month of September 2006.¹⁶

26. According to the October 2, 2006 article in *The New York Sun*, Softer Voices is trying to “soften the image of Senator Santorum of Pennsylvania in the hope of boosting his standing with female voters and saving his Senate seat for the Republican Party.”¹⁷

27. Softer Voices has funded three ads, to date, that promote or support Senator Santorum. The first ad, titled “Who I Am Today,” features Bylly Jo Morton, who was employed by Senator Santorum while being on welfare. The ad promotes or supports Senator Santorum. The ad states, “Senator Santorum was looking to hire someone who was on welfare and give them an opportunity to do something better with their life. And that was me.” The ad also states, “I could not tell him thank you enough for what he did for me. Because he gave the chance I needed to become who I am today.”¹⁸ According to an article in *The Philadelphia Inquirer* about the ad, “Thanks to just five wealthy conservatives, the ad is on a \$1 million rotation through TV sets across Pennsylvania in the campaign’s critical final weeks.”¹⁹

28. The second ad funded by the group is titled “Family.” The ad promotes or supports Senator Santorum and attacks his opponent, Bob Casey. The ad states, “Welfare reform has moved millions of people from welfare to work. However Bob Casey opposed these important and successful reforms. Senator Rick Santorum not only helped author and pass the

¹⁶ See Exhibit E.

¹⁷ See Exhibit F.

¹⁸ A copy of the transcript of the ad, “Who I Am Today,” is attached as Exhibit H.

¹⁹ See Exhibit G.

historic welfare to work legislation—he even went one step further.” The ad then shows Bylly Jo Morton, who among other things says, “Senator Santorum and his staff cared about me. He helped provide for my family and he got me where I am. And that is a successful educated teacher.”²⁰ According to the October 2, 2006 article in *The New York Sun*, quoting Lisa Schiffren:

Mr. Santorum’s Democratic opponent, Robert Casey Jr., does not support the so-called welfare reform bill signed by President Clinton in 1996.

“We love this issue,” a former speechwriter for Vice President Quayle and founder of Softer Voices, Lisa Schiffren, told *The New York Sun*. “It’s really important for conservatives to remember *and for voters to remember* that welfare reform was a conservative issue and that people like Rick Santorum made it happen and that people like Bill Clinton signed that bill kicking and screaming.”

The article further stated:

Ms. Schiffren, who is best known for Mr. Quayle’s 1992 speech accusing Hollywood of using a television series, ‘Murphy Brown,’ to glamorize single motherhood, said Mr. Santorum is suffering from women’s perceptions that he is rigid and unforgiving. “Women in general don’t like to feel they’re being mean *by voting for a candidate* who occasionally sounds too sure of himself and takes moral positions that can be off-putting,” she said.²¹

29. The third ad funded by Softer Voices, features Jon Shestak, “a leading advocate for autistic kids,” according to the ad. The ad promotes or supports Senator Santorum. In the ad, Shestak says, “I am a liberal democrat from Pennsylvania and I am also the father of an autistic son. I disagree with Rick Santorum about a lot of things. But what everyone who lives with someone with autism needs to know, is that Rick Santorum is the greatest champion in Congress our kids have ever had. Ever.” Shestak adds, “Autism is an emergency. It’s like

²⁰ A copy of the transcript of the ad, “Family,” is attached as Exhibit I.

²¹ See Exhibit F (emphasis added).

another one of our kids has been kidnapped every 20 minutes. Rick Santorum gets it. And he is doing everything he can to help our kids.”²²

**Violation of Law
(Political Committee Status)²³**

30. Softer Voices and The Lantern Project are each “political committees” under the federal campaign finance law. Each is an entity which (1) has a “major purpose” to influence candidate elections, and in particular, federal candidate elections, and (2) has received contributions or made expenditures of more than \$1,000 in a calendar year. Because each respondent meets both parts of this test, it is a federal “political committee,” and is accordingly subject to the contribution limits, source prohibitions and reporting requirements that apply to all federal political committees. Because each respondent has not complied with these rules applicable to federal political committees, each has been, and continues to be, in violation of the law.

31. Section 431(4) of Title 2 defines the term “political committee” to mean “any committee, club, association or other group of persons which receives contributions aggregating in excess of \$1,000 during a calendar year or which makes expenditures aggregating in excess of \$1,000 during a calendar year.” 2 U.S.C. § 431(4); *see also* 11 C.F.R. § 100.5(a). A “contribution,” in turn, is defined as “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

²² A clip of the ad is available at <http://www.softervoices.org/index.shtml> (Last Accessed: 10/17/06).

²³ This count sets forth a violation that is substantively identical as a matter of law to allegations made in five complaints previously filed by the same complainants against the Economic Freedom Forum and Majority Action (complaint filed October 12, 2006), against the Media Fund (complaint filed January 15, 2004), against Progress for America-Voter Fund (complaint filed July 21, 2004), against Swift Boat Veterans for Truth (complaint filed August 10, 2004), and against Texans for Truth (complaint filed September 24, 2004), six similarly situated section 527 groups.

office....” 2 U.S.C. § 431(8)(A). Similarly, an “expenditure” is defined as “any purchase, payment, distribution, loan, advance, deposit, or gift 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(9)(A).

32. Any entity which meets the definition of a “political committee” must file a “statement of organization” with the Federal Election Commission, 2 U.S.C. § 433, and periodic disclosure reports of its receipts and disbursements. 2 U.S.C. § 434. In addition, a “political committee” is subject to contribution limits, 2 U.S.C. §§ 441a(a)(1), 441a(a)(2), and source prohibitions, 2 U.S.C. § 441b(a), on the contributions it may receive and make. 2 U.S.C. § 441a(f). These rules apply even if the political committee is engaged only in independent spending. 11 C.F.R. § 110.1(n).

33. In *Buckley v. Valeo*, 424 U.S. 1 (1976), the Supreme Court construed the term “political committee” to “only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate.” 424 U.S. at 79 (emphasis added). Again, in *FEC v. Massachusetts Citizens for Life*, 479 U.S. 238 (1986), the Court invoked the “major purpose” test and noted that if a group’s independent spending activities “become so extensive that the organization’s major purpose may be regarded as campaign activity, the corporation would be classified as a political committee.” 479 U.S. at 262 (emphasis added). In that instance, the Court continued, it would become subject to the “obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns.” *Id.* (emphasis added). The Court in *McConnell* restated the “major purpose” test for political committee status as iterated in *Buckley*. 540 U.S. at 170 n.64.

34. In *FEC v. GOPAC*, 917 F. Supp. 851 (D.D.C. 1996), a single federal district court further narrowed the “major purpose” test to encompass not just the nomination or election

of any candidate, but only “the nomination or election of a particular candidate or candidates for federal office.” 917 F. Supp. at 859. Thus, the court said that “an organization is a ‘political committee’ under the Act if it received and/or expended \$1,000 or more and had as its major purpose the election of a particular candidate or candidates for federal office.” *Id.* at 862. The court further said that an organization’s purpose “may be evidenced by its public statements of its purpose or by other means, such as its expenditures in cash or in kind to or for the benefit of a particular candidate or candidates.” *Id.*

35. For the reasons set forth above, there is a two prong test for “political committee” status under the federal campaign finance laws: (1) whether an entity or other group of persons has a “major purpose” of influencing the “nomination or election of a candidate,” as stated by *Buckley*, or of influencing the “election of a particular candidate or candidates for federal office,” as stated by *GOPAC*, and if so, (2) whether the entity or other group of persons receives “contributions” or makes “expenditures” of at least \$1,000 or more in a calendar year.

36. Prong 1: The “major purpose” test. Softer Voices and The Lantern Project each have a “major purpose” of influencing the election of a candidate, under *Buckley*, or of a “particular candidate or candidates for federal office,” under *GOPAC*. Each respondent thus meets the first prong of the test for “political committee” status, under either *Buckley* or *GOPAC*.

37. First, each respondent is organized under section 527 of the Internal Revenue Code, 26 U.S.C. § 527, and is thus by definition a “political organization” that is operated “primarily” for the purpose of influencing candidate elections. Section 527 of the IRC provides tax exempt treatment for “exempt function” income received by any “political organization.” The statute defines “political organization” to mean a “party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the

purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.” 26 U.S.C. § 527(e)(1) (emphasis added). An “exempt function” is defined to mean the “function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice Presidential electors....” 26 U.S.C. § 527(e)(2) (emphasis added). The Supreme Court said in *McConnell*, “Section 527 ‘political organizations’ are, unlike § 501(c) groups, organized for the express purpose of engaging in partisan political activity.” 540 U.S. at 174 n.67. The Court noted that 527 groups “by definition engage in partisan political activity.” *Id.* at 177. A “political organization” as defined in section 527 must register as such with the Secretary of the Treasury, and must file periodic disclosure reports with the Secretary as required by section 527(j). Each respondent has registered as a “political organization” under section 527.

38. Thus, by definition, any entity that registers with the Secretary as a “political organization” under section 527 is “organized and operated primarily” for the purpose of “influencing or attempting to influence the selection, nomination, election or appointment of” an individual to public office. The Commission has cited the section 527 standard as identical to the “major purpose” prong of the test for “political committee” status. *See, e.g.*, Advisory Opinions 1996-13, 1996-3, 1995-11. Accordingly, any group that chooses to register as a “section 527 group” – including each respondent here – is, by definition, an entity “the major purpose of which is the nomination or election of a candidate....”²⁴ Under the “major purpose” standard set forth in *Buckley*, this is sufficient to meet the first prong of the “political committee” test.

²⁴ This would be true in all instances other than a 527 organization which is devoted to influencing the nomination or appointment of individuals to appointive office such as, *e.g.*, a judicial appointment, but this exception does not apply to the respondents here.

39. Even if that standard is further narrowed by *GOPAC*, each respondent here has a “major purpose” of influencing the nomination or election of a “particular candidate or candidates for federal office....” 917 F. Supp. at 859. Each respondent is spending significant amounts on broadcast ads and mailings that expressly refer to, and attack or oppose, various candidates for Congress in the 2006 congressional elections. Thus, each respondent has a “major purpose” to support or oppose particular federal candidates, thus meeting even the most narrow definition under *GOPAC* of the first prong of the test for “political committee.”

40. Prong 2: “Expenditures” of \$1,000. The second prong of the definition of “political committee” is met if an entity which meets the “major purpose” test also receives “contributions” or makes “expenditures” aggregating in excess of \$1,000 in a calendar year. Both “contributions” and “expenditures” are defined to mean funds received or disbursements made “for the purpose of influencing” any federal election. 2 U.S.C. § 431(8), (9).

41. This second prong test – whether a group has made \$1,000 in “expenditures” – is not limited by the “express advocacy” standard when applied to a section 527 group, such as the respondents here. Rather, the test for “expenditure” in this case is the statutory standard of whether disbursements have been made “for the purpose of influencing” any federal election, regardless of whether the disbursements were for any “express advocacy” communication. The Supreme Court made clear in *Buckley* that the “express advocacy” standard does not apply to an entity, like a section 527 group, which has a major purpose to influence candidate elections and is thus not subject to concerns of vagueness in drawing a line between issue discussion and electioneering activities. Groups such as section 527 “political organizations” are formed for the principal purpose of influencing candidate elections and, as explained by the Court in *Buckley*, their expenditures “can be assumed to fall within the core area sought to be addressed by

Congress. They are, by definition, campaign related.” 424 U.S. at 79. The Court affirmed this position in *McConnell*. 540 U.S. at 170, n.64. Thus, the “express advocacy” test, which the Supreme Court in *McConnell* deemed to be “functionally meaningless,” 540 U.S. at 217, is not relevant to the question of whether a section 527 organization is making expenditures to influence the election of federal candidates.

42. The Commission has acknowledged that the “express advocacy” test is not relevant to the question of whether a section 527 organization is making “expenditures.” In Ad. Op. 2006-20 (Unity 08), the Commission advised Unity 08, a section 527 organization, that “monies spent by Unity 08 to obtain ballot access through petition drives will be expenditures.” Unity 08’s proposed disbursements to obtain ballot access involved no “express advocacy.” *See also*, Ad. Op. 1994-05 n.1 and Ad. Op. 1984-11 (finding non-express advocacy payments to be “expenditures”).

43. Each respondent here has made “expenditures” in amounts far in excess of the \$1,000 threshold of the second prong of the test for “political committee” status. These expenditures have been and will be made for broadcast advertisements and mailings that attack or oppose, or promote or support, congressional candidates in the 2006 mid-term elections. These disbursements have been “for the purpose of influencing” federal elections, and thus constitute “expenditures” under the law.

44. Ads run by a section 527 “political organization” that promote, support, attack or oppose federal candidates are clearly for the purpose of influencing a federal election, even if such ads do not contain “express advocacy” or are not “electioneering communications,” as defined in 2 U.S.C. § 434(f)(3)(A)(i). Because the “express advocacy” test does not apply to section 527 groups, and thus does not limit the statutory definition of “expenditures” made by

such groups, the funds spent by each respondent here to attack or oppose, or promote or support, candidates for Congress in the 2006 election, are “expenditures.” They are being made “for the purpose of influencing” the 2006 Pennsylvania Senate election.

45. Alternatively, even if the Commission were to incorrectly decide that the “express advocacy” test does apply to section 527 groups, the ads run by the respondents here meet that test as well under the Commission’s existing regulations. The Commission regulations define “express advocacy” to include a communication that “when taken as a whole and with limited reference to external events...could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more candidates because the electoral portion of the communication is unmistakable, unambiguous and suggestive of only one meaning and reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidates or encourages some other kind of action.” 11 C.F.R. § 100.21(b). The ads run by the respondents, when taken as a whole, can only be interpreted by a reasonable person as supporting or opposing the election of particular candidates for Congress, and thus meet the Commission’s existing regulatory definition of “express advocacy.” Thus, the ads by the respondents here contain “express advocacy” and therefore constitute “expenditures.”

46. Each respondent to date has not registered with the Commission as a federal political committee. It is presumably intending to make all of its disbursements regarding federal candidates from an account that does not comply with federal reporting requirements and contribution limits, and, in the case of The Lantern Fund, source prohibitions.

47. In sum, each respondent has a “major purpose” to support or oppose the election of one or more particular federal candidates, and it has spent far in excess of the statutory \$1,000 threshold amount on “expenditures” for this purpose. The Commission

accordingly should find that each respondent is a “political committee” under the Act. The respondents have not filed a statement of organization as a political committee, as required by 2 U.S.C. § 432, have not complied with the reporting requirements of 2 U.S.C. § 434, and have not complied with the contribution limits of 2 U.S.C. § 441a and, in the case of The Lantern Project, the source prohibitions of 2 U.S.C. § 441b. The Commission should accordingly find each respondent in violation of these provisions of law.

Disclosure

48. Because of the violations of law set forth above, the Commission and the public, including the complainants, are not receiving full and accurate public disclosure of the funds raised and spent by each respondent, as required by FECA. Because each respondent is a political committee, the funds received by each respondent are “contributions” subject to the mandatory federal reporting requirements of FECA and are required to be fully disclosed to the Commission and to the public, 2 U.S.C. § 434, including complainants. The donations received by each respondent, as a section 527 group which is not reporting to the Commission as a federal political committee, are subject only to reporting to the Internal Revenue Service under 26 U.S.C. § 527 and such disclosure may be avoided altogether if the recipient chooses to pay income tax on the donation. Further, section 527, unlike the FECA requirements applicable to political committees, does not require the reporting of the aggregate amount of unitemized contributions received by the group, so there is no basis to determine the total aggregate amount raised by such a section 527 group. Thus, to the extent that each respondent is wrongly treating contributions required to be reported under FECA instead as donations to a section 527 account, the public, including complainants, and the Commission have no assurance that all contributions

required to be disclosed under FECA are properly being disclosed, or that the total amount of contributions to each respondent is being disclosed.

Prayer for Relief

49. Wherefore, the Commission should conduct an immediate investigation under 2 U.S.C. §437g, should determine that The Lantern Project and Softer Voices have each violated 2 U.S.C. §§ 432, 434, 441a and, in the case of The Lantern Project, § 441b(a), and 11 C.F.R. § 114.4, should impose appropriate sanctions for such violations, should enjoin the each respondent from all such violations in the future, and should impose such additional remedies as are necessary and appropriate to ensure compliance with FECA and BCRA.

October 19, 2006

Respectfully submitted,

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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 Democracy 21

Fred Wertheimer

Sworn to and subscribed before me this ____ day of October, 2006.

Notary Public

For Complainant Campaign Legal Center

J. Gerald Hebert

Sworn to and subscribed before me this ____ day of October, 2006.

Notary Public