

December 20, 2012

Honorable Eric H. Holder, Jr.
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Attorney General:

As detailed in the attached complaint, filed December 20 with the Federal Election Commission (FEC), the Campaign Legal Center and Democracy 21, have reason to believe, based on published reports, that Specialty Group Inc. and Kingston Pike Development LLC, as well as William S. Rose, Jr. and any other person(s) who created, operated and made contributions in the name of these two recently-created companies, may have violated 2 U.S.C. § 441f by making more than \$12 million in contributions to the political committee FreedomWorks for America in the names of Specialty Group Inc. and Kingston Pike Development LLC—rather than in the names of the true source(s) of the funds. These two companies may have also violated 2 U.S.C. § 441f by knowingly permitting their names to be used for the making of such contributions.

Further, the Campaign Legal Center and Democracy 21 have reason to believe, based on published reports, that Specialty Group Inc. and Kingston Pike Development LLC, as well as Mr. Rose and any other person(s) who created and operated these two companies, may have violated 2 U.S.C. §§ 432, 433 and 434 by failing to organize each of the companies as political committees, register the political committees and file disclosure reports as political committees, as defined at 2 U.S.C. § 431(4).

We are writing to urge the Department of Justice to exercise its authority to conduct criminal investigations of these potential violations of federal law by Specialty Group Inc. and Kingston Pike Development LLC, as well as Mr. Rose and any other person(s) who created and operated and made contributions in the name of Specialty Group Inc. and Kingston Pike Development LLC, and, if warranted, to bring criminal proceedings to enforce federal campaign finance laws as they apply to these groups and individuals.

Although the FEC has exclusive jurisdiction over civil enforcement of the Federal Election Campaign Act (FECA), 2 U.S.C. § 431 *et seq.*, the Department of Justice has its own independent and exclusive jurisdiction to bring criminal enforcement proceedings for violations of these laws. Specifically, FECA provides for criminal sanctions, enforced by the Department of Justice, in the case of “knowing and willful” violations of FECA that exceed specified monetary thresholds, which vary according to the specific statutory provision violated. *See* 2 U.S.C. § 437g(d).¹

¹ As explained in the Department of Justice handbook FEDERAL PROSECUTION OF ELECTION OFFENSES 198-99 (7th Ed. 2007):

The Department of Justice is responsible for ensuring that potential “knowing and willful” violations of FECA are investigated and that actual “knowing and willful” violations are prosecuted and punished. We urge you to fulfill your responsibility in this case because the integrity of U.S. elections depends on the effective enforcement of the Nation’s campaign finance laws.

Sincerely,

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Copy to: Mr. Lanny A. Breuer, Assistant Attorney General, Criminal Division
Mr. Jack Smith, Chief, Public Integrity Section

The Federal Election Commission has exclusive authority to enforce FECA’s noncriminal penalties. . . . FECA violations that are committed knowingly and willfully and involve aggregate values that satisfy the monetary thresholds in the Act’s criminal provision, 2 U.S.C. § 437g(d), are also federal crimes. These cases are prosecuted by the Department of Justice.

. . . .

In view of the enhanced criminal penalties for FECA crimes and the legislative history supporting their enactment, it is the Justice Department’s position that all knowing and willful FECA violations that exceed the applicable jurisdictional floor specified in the Act’s criminal provision should be considered for federal prosecution under one or more of the prosecutive theories presented above.