

Brian Melendez, Chair
Donna Cassutt, Associate Chair
255 E. Plato Blvd • St. Paul, MN 55107



March 27, 2008

Thomasenia Duncan, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463



Re: Complaint against American Future Fund

Dear Ms. Duncan,

Pursuant to 2 U.S.C. § 437g(a)(1), this letter is a complaint against American Future Fund, alleging that it has violated and continues to violate the Federal Election Campaign Act of 1971, as amended. The facts indicate that American Future Fund had failed to register and report as a political committee with the Federal Election Commission and to comply with the obligations applying to such committees.

The American Future Fund is a shadowy nonprofit organization. It purports to be exempt from tax under section 501(c)(4) of the Internal Revenue Code. But its notion of "promoting the social welfare" is to send valentines to electorally-troubled Republican Senate candidates. The Commission should take immediate steps to enforce the law and expose this group's secret financing to the light of day.

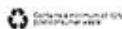
THE FACTS

On March 19, 2008, American Future Fund began to air a television advertisement in the Minneapolis and Mankato markets. The ad lauds Senator Norm Coleman, who is a candidate for U.S. Senate in 2008. On information and belief, the advertisement is scheduled to run at significant levels in both markets for approximately two weeks. The total cost for air time purchased on WCCO, a CBS affiliate in Minneapolis, was \$32,130.00. The contact information for American Future Fund that was provided in the purchase of air time is as follows:

American Future Fund
P.O. Box 13434
Des Moines, IA 50310
Brd. Pres: Nicole Schlinger
Tel: (515) 720-5250

The transcript of the television advertisement is as follows:

When the unthinkable happened, Senator Norm Coleman teamed with Amy Klobuchar to secure \$250 million to rebuild the 35W



651.293.1200

800.999.7457

<http://www.dfl.org>

S-000000-75

Paid for by the Minnesota DFL, Brian Melendez, Chair, www.dfl.org, not authorized by any candidate or candidate's committee.

Next →

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bridge. Coleman has worked with Republicans and Democrats to make college more affordable, expand opportunities for our soldiers and National Guard returning home, and crack down on predatory lenders. An independent voice for Minnesota: Norm Coleman. Call Norm Coleman and thank him for his agenda for Minnesota.

Several images of Senator Coleman appear throughout the advertisement. The telephone number for Senator Coleman's district office in St. Paul, Minnesota appears on the screen at the end of the advertisement. Also on the screen at the end of the advertisement is a written disclaimer, "Paid for by the American Future Fund".

LEGAL ARGUMENT

A. The Television Advertisement Is an Independent Expenditure

An "independent expenditure" is defined as an expenditure by a person for a communication "expressly advocating the election or defeat of a clearly identified candidate" that was not coordinated with a candidate or a political party. 2 U.S.C. § 431(17); *see* 11 C.F.R. § 100.16. The Commission's regulations define "expressly advocating" to include communications that "[w]hen taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate." 11 C.F.R. § 100.22(b).

This ad is plainly an independent expenditure. It can only be interpreted to advocate the reelection of Senator Norm Coleman – a clearly identified candidate. It does not ask the viewer to take a position on any issue, nor does it urge Coleman to share any such position. Instead, it provides a laundry list of different things that Coleman has supposedly done, and asks the viewer to call his office in thanksgiving. Its characterization of Coleman as "an independent voice for Minnesota" is a blatant comment on his fitness for reelection. The term "sham issue ad" fits this ad better than hardly any other.

B. American Future Fund Failed to File with the Commission

American Future Fund is blatantly evading the basic disclosure requirements that apply to those who spend money to influence elections. Groups making expenditures in excess of \$1,000 in a calendar year are required to register with and report to the Commission as political committees. *See* 2 U.S.C. § 431(4)(A). American Future Fund has spent well over \$1,000 on efforts to influence the upcoming Federal election in the state of Minnesota, and has no visible purpose other than to support the nomination or election of candidates for Federal office. American Future Fund is therefore a political committee under federal law, and must obey the reporting requirements of a political committee. But American Future Fund has filed no statement of organization with the Commission and no disclosure reports.

C. American Future Fund Failed to File Independent Expenditure Reports

American Future Fund's pattern of evading the disclosure rules extends also to its failure to disclose timely its election-influencing ads. Commission regulations require political committees and other persons making independent expenditures in excess of \$10,000 to file a report with the Commission not later than "11:59 p.m. on the second day following the date on which a communication that constitutes an independent expenditure is public distributed." 11 C.F.R. §§ 104.4(b), 109.10(c). Because the television advertisements were first aired on March 19, 2008, a report should have been filed with the Commission no later than 11:59 p.m. on March 21, 2008. No such report has been filed.

D. Television Advertisement Does Not Have Required Disclaimer

Finally, American Future Fund has evaded the law's requirement to take responsibility for its election-influencing ads. A communication that is paid for by a political committee and not authorized by a candidate must "clearly state the name and permanent street address, telephone number or World Wide Web address of the person who paid for the communication and state that the communication is not authorized" by the candidate. 2 U.S.C. § 441d(a)(3); 11 C.F.R. § 110.11(b)(3). In addition, a television advertisement that is not authorized by the candidate must include the following audio statement: "_____ is responsible for the content of this advertising." 2 U.S.C. § 441d(d)(2); 11 C.F.R. § 110.11(c)(4).

The television advertisement paid for by American Future Fund fails to meet both requirements. The written "paid for by" statement does not include a street address, phone number, or internet address. And the advertisement does not include an audio statement that American Future Fund is responsible for the content of the advertising. These are clear violations of federal election law.

For the foregoing reasons, we demand that the Commission investigate immediately the violations presented herein. We request that American Future Fund be enjoined from further violations, and suffer the most severe penalties permitted by law.

Sincerely,

Brian Melendy

SUBSCRIBED AND SWORN to before me this 27th day of March, 2008.



Dawn D. Revenaugh
Notary Public

My Commission Expires:

January 31, 2010