

FEDERAL ELECTION COMMISSION

In the matter of: Marsha Blackburn for Congress, Inc.  
Tea Hoffman, Treasurer

MUR No:

COMPLAINT

1. Citizens for Responsibility and Ethics in Washington ("CREW"), Melanie Sloan and Barbara Kaye Ginsberg bring this complaint before the Federal Election Commission ("FEC") seeking an immediate investigation and enforcement action against Marsha Blackburn for Congress, Inc. ("MBC") and Tea Hoffman, 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 protecting the right of citizens to be informed about the activities of government officials and to ensuring the integrity of government officials. CREW is dedicated to empowering 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 seeks to expose unethical and illegal conduct of those involved in government. One way CREW does this is by educating 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. Through its website, press releases and other methods of distribution, CREW also files complaints with the FEC when it discovers violations of the FECA. Publicizing campaign finance violators and filing complaints with the FEC serves CREW's mission of keeping

the public informed about individuals and entities who violate campaign finance laws and deterring future violations of campaign finance laws.

4. In order to assess whether an individual, candidate, political committee, or other regulated entity is complying with federal campaign finance law, CREW needs the information contained in receipts and disbursements reports that political committees must file pursuant to the FECA, 2 U.S.C. § 434(a)(2); 11 C.F.R. § 104.1. CREW is hindered in its programmatic activity when an individual, candidate, political committee or other regulated entity fails to disclose campaign finance information in reports of receipts and disbursements required by the FECA.

5. CREW relies on the FEC's proper administration of the FECA's reporting requirements because the FECA-mandated reports of receipts and disbursements are the only source of information CREW can use to determine if a candidate, political committee, or other regulated entity is complying with the FECA. The proper administration of the FECA's reporting requirements includes mandating that all reports of receipts and disbursements required by the FECA are properly and timely filed with the FEC. CREW is hindered in its programmatic activity when the FEC fails to properly administer the FECA's reporting requirements.

6. 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. Barbara Kaye Ginsberg is a citizen of the United States and a registered voter and resident of the Seventh Congressional District of Tennessee. As registered voters, Ms. Sloan and Ms. Ginsberg are entitled to receive information contained in reports of receipts and disbursements required by the FECA, 2 U.S.C. § 434(a)(2); 11 C.F.R. § 104.1. Ms. Sloan and Ms. Ginsberg are harmed when a candidate, political committee, or other regulated entity fails to report campaign finance activity as required by the FECA. See FEC v. Akins, 524 U.S. 11,

19 (1998), quoting Buckley v. Valeo, 424 U.S. 1, 66-67 (1976) (political committees must disclose contributors and disbursements to help voters understand who provides which candidates with financial support). Ms. Sloan and Ms. Ginsberg are further harmed when the FEC fails to properly administer the FECA's reporting requirements, limiting their ability to review campaign finance information.

#### Respondents

7. Marsha Blackburn is a member of the United States House of Representatives representing the seventh congressional district of Tennessee. Marsha Blackburn for Congress, Inc. is the principal campaign committee for Rep. Blackburn. Tea Hoffman is the current treasurer of Marsha Blackburn for Congress Inc. and served as treasurer at the time of the events described in this complaint.

#### Factual Allegations

8. On July 20, 2005, the FEC's Reports Analysis Division referred MBC and Tea Hoffman, as treasurer, to the FEC's Office of General Counsel for an enforcement action for failing to disclose all disbursements on its 2004 12 Day Pre-General Report and for failing to disclose all receipts on its 2004 30 Day Post-General Report in violation of 2 U.S.C. §§ 434(b)(2)&(4) and 11 C.F.R. §§ 104.3(a)&(b) (see Reports Analysis Referral to Office of General Counsel attached as Exhibit A). Specifically, the Reports Analysis Division alleged that MBC and Tea Hoffman, as treasurer, had violated 2 U.S.C. § 434(b)(4) and 11 C.F.R. § 104.3(b) by failing to disclose additional disbursements totaling \$50,046.96 on its original 2004 12 Day Pre-General Report. In addition, the Reports Analysis Division alleged that MBC and Tea Hoffman, as treasurer, had violated 2 U.S.C. § 434(b)(2) and 11 C.F.R. § 104.3(a) by failing to disclose additional receipts totaling \$61,856.00 on its original 2004 30 Day Post-General Report.

9. On October 20, 2005, G. Kline Preston of the Preston Law Group, P.C., on behalf of MBC and Tea Hoffman, as treasurer, responded to the Reports Analysis Division

referral in a letter to Ms. Lynn M. Fraser, Assistant Director of the FEC's Alternative Dispute Resolution Office (attached as Exhibit B). Mr. Kline argued that all of the violations alleged by the Reports Analysis Division were inadvertent and stated that both MBC "and Ms. Hoffman have recognized the reporting errors and have taken remedial measures to ensure against future errors." Exhibit B at 2. In addition, Mr. Kline argued that "there is no suggestion or evidence to support an argument that these errors were intentional or intended to serve any purpose for the benefit of the Committee, Ms. Hoffman, or Rep. Blackburn." *Id.*

10. On March 21, 2006, MBC and Tea Hoffman, as treasurer, entered into a negotiated settlement with the FEC in ADR 287 to resolve the allegations in the Reports Analysis Division's July 20, 2005 referral to the Office of the General Counsel (attached as Exhibit C). MBC and Tea Hoffman, as treasurer, agreed to (a) develop a FEC compliance manual for staff reference, (b) pay a civil penalty of \$1,500, and (c) send the person responsible for FECA compliance to a FEC seminar within twelve months of the date of the agreement. Exhibit C at 2. MBC and Tea Hoffman, as treasurer, also agreed that "all information provided to resolve this matter [was] true and accurate to the best of their knowledge and that they sign[ed] [the] agreement under penalty of perjury pursuant to 28 U.S.C. § 1746." *Id.*

11. On April 16, 2008, MBC and Tea Hoffman, as treasurer, announced to the media that an internal review of the MBC's records had determined that MBC had failed to report or had incorrectly reported receipts and expenditures totaling more than \$440,000 over a period of more than six years. Bill Theobald, Blackburn funds were misreported, *The Tennessean*, April 16, 2008 (attached as Exhibit D). Don McGahn, counsel for MBC, prepared and released to the media a fact sheet summarizing the results of the internal review of MBC's records (attached as Exhibit E). The fact sheet indicates that MBC failed to report a total of \$102,444.09 in contributions and

\$286,278.05 in expenditures, including \$18,821.11 in expenditures to Political Concepts, a company owned by Rep. Blackburn's daughter and son-in-law, Mary and Paul Morgan. Exhibit E at 1.

12. On May 19, 2008, *The Jackson Sun* reported that MBC had failed to report a \$1,000 contribution it had received from Friends of Duke Cunningham on October 8, 2004. Bill Theobald, Blackburn campaign plagued by financial data problems, *The Jackson Sun*, May 19, 2008 (attached as Exhibit F). Friends of Duke Cunningham was the principal authorized campaign committee of Representative Randy "Duke" Cunningham (R-CA). Former Rep. Cunningham is currently serving an eight year, four month prison sentence in a federal prison after being convicted of tax evasion, conspiracy to commit bribery, mail fraud, and wire fraud.

13. The October 8, 2004 contribution by Friends of Duke Cunningham to MBC should have been reported by MBC on its 2004 12 Day Pre-General Report – the exact same report that was the subject of the FEC enforcement action in ADR 287. It was not. See 2004 MBC 12 Day Pre-General Report (filed October 18, 2004)(attached as Exhibit G). MBC filed four subsequent amended versions of its 2004 12 Day Pre-General Report on November 11, 2004, November 29, 2004, April 21, 2005 and November 16, 2005. None of these amended versions of MBC's 2004 12 Day Pre-General Report disclosed the October 8, 2004 contribution by Friends of Duke Cunningham. Rep. Cunningham was convicted of tax evasion, conspiracy to commit bribery, mail fraud and wire fraud on November 28, 2005 – one month after MBC and Tea Hoffman, as treasurer, had filed their response in ADR 287 claiming that any deficiencies in the 2004 12 Day Pre-General Report were "inadvertent" and less than two weeks after MBC filed the last amended version of its 2004 12 Day Pre-General Report, which, for the fifth time, failed to disclose the Cunningham contribution. MBC finally disclosed the October 8, 2004 Friends of Duke Cunningham contribution on April 16,

2008 – three-and-a-half years after it was received by MBC. See MBC Amended 12 Day Pre-General Report (filed April 16, 2008)(attached as Exhibit H).

#### COUNT I

14. FECA and FEC regulations both require a principal campaign committee to disclose its receipts during each applicable reporting period. 2 U.S.C. § 434(b)(2); 11 C.F.R. § 104.3(a).

15. By its own admission, MBC and Tea Hoffman, as treasurer, failed to disclose \$102,044.09 in contributions, including the October 4, 2004 \$1,000 contribution from Friends of Duke Cunningham, in violation of 2 U.S.C. § 434(b)(2) and 11 C.F.R. § 104.3(a).

#### COUNT II

16. FECA and FEC regulations both require a principal campaign committee to disclose its expenditures during each applicable reporting periods. 2 U.S.C. 434(b)(4); 11 C.F.R. § 104.3(b).

17. By its own admission, MBC and Tea Hoffman, as treasurer, failed to disclose \$286,278.05 in expenditures, including \$18,821.11 in expenditures to a company owned by Rep. Blackburn's daughter and son-in-law, in violation of 2 U.S.C. § 434(b)(4) and 11 C.F.R. § 104.3(b).

#### COUNT III

18. FECA and FEC regulations authorize the FEC to conduct an audit and field investigation of any political committee required to file a report under 2 U.S.C. § 434 if the FEC determines that the reports filed by a particular committee fail to meet the threshold for substantial compliance with the Act. 2 U.S.C. § 438(b); 11 C.F.R. § 104.16.

19. By its own admission, MBC and Tea Hoffman, as treasurer, failed to disclose \$102,044.09 in receipts and \$286,278.05 in expenditures over a period of more than six years. The reports filed by MBC and Tea Hoffman, as treasurer, since July 15,

2002 do not meet the threshold for substantial compliance with the FECA.

#### COUNT IV

20. MBC and Tea Hoffman, as treasurer, signed a settlement agreement with the FEC in ADR 287 in which they stated that all information provided to the FEC to resolve the enforcement matter over the MBC 2004 12 Day Pre-General Report was true and accurate to the best of their knowledge and that they signed the settlement agreement under penalty of perjury pursuant to 28 U.S.C. § 1746.

21. MBC and Tea Hoffman, as treasurer, failed to disclose the October 8, 2004 contribution from Friends of Duke Cunningham when providing information to the FEC to resolve the enforcement matter over the MBC 2004 12 Day Pre-General Report in violation of 28 U.S.C. § 1746.

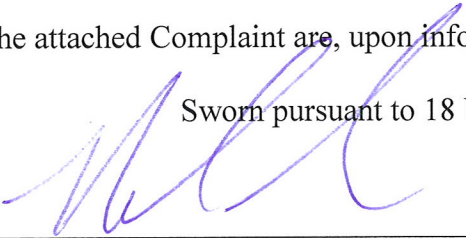
#### CONCLUSION

WHEREFORE, Citizens for Responsibility and Ethics in Washington, Melanie Sloan and Barbara Kaye Ginsberg request that the Federal Election Commission conduct an audit and investigation into these allegations, declare the respondents to have violated the Federal Election Campaign Act and applicable FEC regulations, impose sanctions appropriate to these violations, and take such further action as may be appropriate, including referring the violations of 28 U.S.C. § 1746 to the Department of Justice for criminal prosecution pursuant to 18 U.S.C. § 1621(2).

**Verification**

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

Sworn pursuant to 18 U.S.C. § 1001.

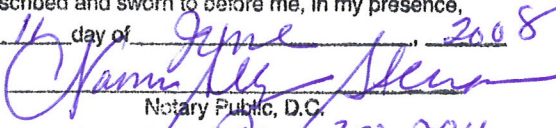
  
\_\_\_\_\_  
Melanie Sloan

Sworn to and subscribed before me this 11th day of June, 2008.

District of Columbia: SS

Subscribed and sworn to before me, in my presence,

this 11 day of June, 2008

  
\_\_\_\_\_  
Notary Public, D.C.

My commission expires June 30, 2011

NAOMI SELIGMAN STEINER  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires June 30, 2011