

## FEDERAL ELECTION COMMISSION

In the matter of : Americans for a Republican Majority Political Action Committee  
Corwin Teltschik, Treasurer MUR No.: \_\_\_\_\_

### COMPLAINT

1. Citizens for Responsibility and Ethics in Washington hereby brings this complaint before the Federal Election Commission seeking an immediate FEC investigation and enforcement action against Americans for a Republican Majority Political Action Committee and Corwin Teltschik for direct and serious violations of federal campaign finance law.

#### Complainant

2. Citizens for Responsibility and Ethics in Washington is a non-profit, non-partisan organization dedicated to ensuring accountability in public officials.

#### Respondents

3. Americans for a Republican Majority Political Action Committee (“ARMPAC”) is a political committee registered under the Federal Election Campaign Act. 2 U.S.C. §433. Corwin Teltschik is the treasurer of ARMPAC.

#### Factual Allegations

4. On August 10, 2005, the Audit Division of the Federal Election Commission (“FEC”) issued a report regarding the results of the FEC’s audit of ARMPAC. The audit made findings in three areas: 1) ARMPAC materially misstated its finances for the calendar years 2001 and 2002; 2) ARMPAC failed to report debts owed to 25 vendors in the amount of \$322,306; and 3) ARMPAC improperly allocated expenses between its federal and non-federal accounts. Report of the Audit Division on Americans for a Republican Majority, Jan. 1, 2001 - Dec. 31, 2002, [hereinafter Audit Report] page 3.

## COUNT I

5. The Federal Election Campaign Act (“FECA”) requires political action committees to accurately report their cash on hand at the beginning and end of each reporting period; the total amount of receipts for the reporting period and the calendar year; the total amount of disbursements for the reporting period and for the calendar year; and certain transactions that require itemization in Schedule A or Schedule H4. 2 U.S.C. §§434(b)(1),(2) and (4).

6. The audit staff reconciled ARMPAC’s reported activity to bank records for calendar years 2001 and 2002 and found numerous discrepancies. For 2001, the Audit staff found that ARMPAC overstated its beginning cash balance by \$3,413; that it overstated its receipts by \$64,477; that it overstated its disbursements by \$9,818; and that it overstated its ending cash balance by \$58,072. For 2002, the Audit staff found that ARMPAC overstated its beginning cash balance by \$58,072; that it understated its receipts by \$125,716; that it understated its disbursements by \$40,624; and that it understated its ending cash balance by \$27,020. By materially misrepresenting its financial information, ARMPAC violated 2 U.S.C. §§434(b)(1), (2), and (4).

## COUNT II

7. A political committee must disclose the amount and nature of outstanding debts and obligations until those debts are extinguished. 2 U.S.C. §434(b)(8); 11 C.F.R. §104.3(d) and §104.11(a). A debt of \$500 or less must be reported on the next regularly scheduled report once it has been outstanding for 60 days from the date incurred while a debt exceeding \$500 must be disclosed in the report that covers the date on which the debt was incurred. 11 C.F.R. §104.11(b).

8. Disclosure reports filed by ARMPAC during the audit period did not disclose any debts owed by ARMPAC. Audit Report at 7. After reviewing the disbursements, however, the Audit staff identified debts owed to 25 vendors, totaling \$322,306 that should have been disclosed. Id. The Audit staff further found that the majority of the debts were outstanding over several reporting periods, but not reported. As a result, ARMPAC has violated 11 C.F.R. §104.11(b).

9. Although the Audit Report is silent on the question, the existence of the \$322,306 suggests the possibility of further violations of the FECA. According to the guidance provided to nonconnected committees by the Federal Election Commission, a “vendor may not extend credit to a political committee for a longer period of time than is normally practiced in the creditor’s trade.” “When a political committee fails to pay a debt owed to a . . . vendor within the time specified by the vendor, a prohibited contribution by the vendor may result . . . if the vendor fails to make a commercially reasonable attempt to collect a debt from the committee . . .” Campaign Guide for Nonconnected Committees, at 11; see also 11 C.F.R. §116.3. Here, if ARMPAC failed to pay any of its creditors in a “commercially reasonable” time period, ARMPAC may be deemed to have accepted unreported contributions from these creditors.

10. Moreover, if any of ARMPAC’s creditors are corporations, and the FEC finds that these corporations failed to collect payment from ARMPAC in a reasonable time period, these corporations may be deemed to have made contributions to ARMPAC. Corporations, however, are prohibited from making contributions to federal political action committees, meaning that any such contributions would have been made and accepted in violation of the FECA. 2 U.S.C. §441b(a).

11. Finally, the FECA limits PACs to accepting no more than \$5,000 per election from any contributor. 2 U.S.C. §441a(a)(1)(C). If the FEC finds that ARMPAC failed to pay any debts of over \$5,000 such that those debts now amount to contributions, those contributions would be illegal excessive in-kind contributions.

### COUNT III

12. A committee that finances political activity in connection with both federal and non-federal elections must establish two accounts and allocate shared expenses between the two accounts. Alternatively, the committee may conduct both federal and non-federal activity from one bank account, considered a federal account. 11 C.F.R. §102.5(a)(1)(i). A federal account may contain only those funds that are permissible under the FECA; the non-federal account may contain funds that are not permitted under federal law. 11 C.F.R. §102.5(a)(1)(i) and (a)(3). A political committee that allocates federal/non-federal expenses must report each disbursement it makes from its federal account to pay for a shared federal/non-federal expense. 11 C.F.R. §104.10(b)(4).

13. In allocating funds for generic voter drives, nonconnected committees must allocate all of their costs. 11 C.F.R. §106.6(b)(2)(iii). Administrative expenses and the costs of generic voter drives must be allocated based on the ratio of federal expenditures to the total of federal and non-federal expenditures. The federal and non-federal expenditures are limited to expenditures made in direct support of candidates. 11 C.F.R. §106.6(c)(1).

14. In allocating fundraising expenses between federal and non-federal funds, a committee must allocate the direct cost of the fundraising event based upon the ratio of funds received by the federal account to the total amount raised for the event. 11 C.F.R. §106.5(f)(1).

15. ARMPAC maintained separate federal and non-federal bank accounts. Audit Report at 8. It paid shared expenses from the federal account and transferred funds from the non-federal account to the federal account to cover the non-federal share of those expenses. Id. The Audit staff reviewed disbursements from both the federal and non-federal accounts for administrative expenses and generic voter drive costs and found that the non-federal had overfunded its share of allocable expenses by \$211,281. Id.<sup>1</sup> The Audit staff found that ARMPAC had improperly used an allocation ratio of 50% federal and 50% non-federal for these expenses. Id. at 9. The correct ratio, according to the Audit staff, would have been 93% federal and 7% non-federal. Id. Therefore, the non-federal overpaid its portion of such allocable expenses. Significantly, this means that prohibited funds – including soft money – may have been used to fund ARMPAC’s federal expenses in violation of the FECA. 2 U.S.C. §441b(a).

16. Similarly, ARMPAC used an improper ratio to allocate expenses for eight fundraising events. Audit Report at 9. Correcting the ratios, the Audit staff found that the non-federal account had overpaid the expenses of these fundraising events by \$9,414. Id. Again, this means that prohibited funds may have been used to fund ARMPAC’s federal expenses in violation of the FECA. 2 U.S.C. §441b(a).

17. The Audit staff reviewed 112 payments totaling \$418,352 in what ARMPAC termed non-federal disbursements to consulting/fundraising vendors for fundraising expenses. Audit Report at 10. ARMPAC provided contracts and affidavits that described these services as non-federal fundraising activity. Id. Contrary to this contention, however, the Audit staff found that the documentation provided by ARMPAC did not show separate non-federal fundraising

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<sup>1</sup> ARMPAC provided additional documentation that reduced the liability to the non-federal account from \$211,281 to \$203,483. Audit Report at 7.

activity. Id. In fact, the Audit staff found just the opposite: that the documentation provided by ARMPAC indicated that the fundraising efforts were shared by both the federal and non-federal accounts. Id. As a result, the Audit staff found that the federal portion of the fundraising expenses paid from the non-federal account was \$95,386. Id. Yet again, this means that ARMPAC may have used prohibited soft money to pay for the federal account's expenses. 2 U.S.C. §441b(a).

WHEREFORE, Citizens for Responsibility and Ethics in Washington requests that the Federal Election Commission conduct an investigation into these allegations, declare the respondents to have violated the federal campaign finance laws, impose sanctions appropriate to these violations and take such further action as may be appropriate.

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Melanie Sloan, Executive Director  
Citizens for Responsibility and Ethics in  
Washington  
11 Dupont Circle, N.W., 2<sup>nd</sup> Floor  
Washington, D.C. 20036  
(202) 588-5565