

BEFORE THE FEDERAL ELECTION COMMISSION

In re

GREG BALL, and
BALL4NY,

Respondents.

COMPLAINT

Complainant Gary M. Levine, residing at 290 Hooker Avenue, Poughkeepsie, NY 12603, a natural person, hereby submits this Complaint to the Federal Election Commission pursuant to 2 U.S.C. § 437g(a)(1).

The facts show that Greg Ball, in a matter of just a few months, has repeatedly violated several core provisions of the federal campaign finance laws - illegally soliciting "soft money," converting assets from his soft-money-funded Assembly campaign to his Congressional campaign, and having automated phone calls sent on his behalf without saying who paid for them.

In support, Complainant alleges as follows:

FACTUAL AND LEGAL ANALYSIS

1. Respondent Greg Ball ("Ball") is a candidate for United States House of Representatives in New York's 19th District.

2. The Federal Election Campaign Act and the Bipartisan Campaign Reform Act ban House candidates from raising "soft

money" - funds outside the source restrictions and contribution limits of federal campaign finance law. See 2 U.S.C. § 441i(e).

3. A House candidate, his campaign and their agents may not solicit or receive contributions from persons in excess of \$2,400 per election, or from political action committees in excess of \$5,000 per election. See 2 U.S.C. §§ 441a(a)(1)(A), 441a(a)(2)(A), 441i(e)(1)(A).

4. A House candidate, his campaign and their agents may not accept corporate contributions. See 2 U.S.C. §§ 441b(a), 441i(e)(1)(A). Corporations are prohibited from making expenditures in connection with federal elections. 2 U.S.C. § 441b(a).

5. A contribution includes anything of value, including in-kind contributions. See 2 U.S.C. § 431(8)(A)(i); 11 C.F.R. § 100.52(d).

6. The contribution limits and source restrictions of federal law apply even when a candidate is simply "testing the waters" to decide whether to run. See 11 C.F.R. § 100.131(a).

7. Ball, his campaign and their agents have engaged in a blatant pattern of raising illegal soft money.

Soliciting Illegal Corporate Contributions for a Fundraising Auction

8. On or about June 5, 2009, Ball's so-called "Congressional Exploratory Committee" held a Golf Outing at

Hudson Hills Golf Course and Murphy's Restaurant. See Exhibit A.

9. The outing included a "silent auction." See Exhibit A.

10. On or about May 1, 2009, Jacqueline Ambrosino, a Ball representative, sent an email to a distribution list soliciting donations for the silent auctions. See Exhibit A. "We are looking for tickets to sporting events, televisions, gift certificates to restaurants and services (such as legal and accounting services), foursomes for other golf courses, trips, plane tickets, spa gift certificates, televisions, just to name a few ..." Exhibit A.

11. The May 1, 2009, email expressly asked for corporate contributions: "You can reach out to your network *and try to get donations from both businesses and people.*" Exhibit A (emphasis supplied). "*When working with a business, you can emphasize the foot traffic that will be generated by having their name featured at our event and in a brochure to be handed out to everyone that attends.*" Exhibit A (emphasis supplied).

Accepting Corporate Sponsorships and Seeking Excessive Contributions for an Outdoor Fundraising Event

12. On or about July 25, 2009, Ball's campaign sponsored a "Rockin' Rib Fest & Battle of the Bands." Exhibit B.

13. The July 25, 2009, event was "sponsored" by the New York State Rifle & Pistol Association and the National Rifle

Association. Exhibit B. On information and belief, both entities are corporations.

14. The Ball campaign sought additional "sponsorships" in connection with the July 25, 2009, event, including a "VIP Congressional Tent Sponsorship" priced at \$2,900 - \$500 in excess of the federal contribution limit. Exhibit B. Other Ball event solicitations have shown similar indifference to the \$2,400 limit. See, e.g., <http://www.ballforcongress.com/eventDetail.aspx?eventID=2650> (Exhibit C) (asking for \$2,500 and \$4,800 contributions, without regard to the per-election limit).

Accepting Illegal Soft Money Transfers from Ball's Assembly Committee

15. Federal law prohibits federal candidates from transferring funds or assets to their federal campaigns from their nonfederal campaign committees. See 11 C.F.R. § 110.3(d).

16. Federal law prohibits federal candidates from transferring or spending nonfederal funds in connection with federal elections. See 2 U.S.C. § 441i(e).

17. Ball's federal campaign has made and is making repeated use of photos, videos and other assets from his nonfederal campaign and/or his official New York Assembly office. See, e.g., <http://www.ballforcongress.com/multimedia.aspx>; (Exhibit D). Ball's filings to date with the Federal Election Commission

show no payment to his Assembly campaign, nor to the State of New York, for the use of these photos.

Voicing Illegal Robocalls

18. Federal law requires general public political advertisements paid for by third parties and authorized by candidates to contain a statement disclosing the identity of the payors, and that they had been authorized by the candidates. See 2 U.S.C. § 441d(a)(2).

19. Ball's July 15 Quarterly Report discloses an in-kind contribution made on June 29, 2009, by Brian Callaghan in the form of "Automated Calls." Exhibit E.

20. On or about June 29, 2009, an automated call featuring Ball was distributed to voters in the 19th Congressional District. The call contained no statement indicating who had paid for the call, or whether Ball had authorized it. See Exhibit F.

COUNT ONE

21. Complainant realleges and incorporates by reference paragraphs 1 through 20, above.

22. As set forth above, Ball, while a candidate, did personally and/or through the conduct of his agents and/or others acting at his direction and on his behalf, purposely solicit and receive "soft money," in violation of 2 U.S.C. §§ 441a, 441b and 441i(e).

COUNT TWO

23. Complainant realleges and incorporates by reference paragraphs 1 through 22 above.

24. As set forth above, Ball, while a candidate, did personally and/or through the conduct of his agents and/or others acting at his direction and on his behalf, purposely transfer assets from his nonfederal campaign to his federal campaign and spend nonfederal funds in connection with his federal election, in violation of 2 U.S.C. § 441i(e) and 11 C.F.R. § 110.3(d).

COUNT THREE

25. Complainant realleges and incorporates by reference paragraphs 1 through 24 above.

26. As set forth above, Ball, while a candidate, did personally and/or through the conduct of his agents and/or others acting at his direction and on his behalf, cause advertisements to be distributed on behalf of his principal campaign committee without disclosing who had paid for them, or that he had authorized them, in violation of 2 U.S.C. § 441d.

PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests that the Commission:

A. Find reason to believe that Ball violated the Federal Election Campaign Act of 1971, as amended, and the Bipartisan Campaign Reform Act.

B. Seek the highest civil penalties allowed by law, and an injunction to prevent further violation.

C. Take such other and further action as the Commission deems just and reasonable, or as the law may require.

Respectfully submitted,

Gary M. Levine

STATE OF New York)

County of Dutchess)

SUBSCRIBED AND SWORN to before me this 1st day of October, 2009.

Notary Public

My Commission Expires:
