



For Immediate Release
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FEC TO COLLECT \$750,000 CIVIL PENALTY FROM PROGRESS FOR AMERICA VOTER FUND

WASHINGTON - The Federal Election Commission (FEC) announced today that it has reached a settlement with the Progress for America Voter Fund (PFA-VF), a 527 organization accused of violating Federal campaign finance laws during the 2004 Presidential election. PFA-VF agreed to pay \$750,000 to settle charges that it failed to register and file disclosure reports as a Federal political committee and accepted contributions in violation of Federal limits and source prohibitions. This represents the third largest civil penalty in the Commission's thirty-two year history. The Commission unanimously approved the [conciliation agreement](#).

"This settlement demonstrates once again that the Commission is serious about enforcing the campaign finance law," said FEC Chairman Robert Lenhard. "It should now be clear to organizations that want to be active in the 2008 cycle that the activities we saw in this case are prohibited under the law."

PFA-VF raised \$44.9 million in contributions in the months preceding the 2004 General Election. Over \$41 million of those funds consisted of excessive contributions from individuals, while over \$2 million came from sources prohibited from making contributions under the Act. PFA-VF funded over \$31.1 million in communications related to the 2004 General Election, including television and radio advertisements, direct mailings, email communications, and Internet banner ads. Certain communications expressly advocated either the election of President George W. Bush or the defeat of Senator John Kerry, constituting expenditures under the Act.

If an organization receives contributions or makes expenditures in excess of \$1,000, and its major purpose is involvement in campaign activity, it must register with the Commission as a Federal political committee and abide by the contribution restrictions and reporting requirements of the Federal Election Campaign Act (FECA/the Act). PFA-VF registered with the Internal Revenue Service as a "Section 527" organization - a tax exempt group whose function is to influence the selection, nomination, election, or appointment of any individual to Federal, State, or local public office or office in a political organization. As PFA-VF itself said, it was formed to "focus primarily on TV and radio in key battleground states serving as [a] counter-balance to liberal 527 committees."

Through its public statements, activities, and solicitations for contributions, PFA-VF clearly established that it was a Federal political committee during the 2004 campaign. The FEC's determination that PFA-VF failed to register with the Commission as a political committee, abide by contribution limits and prohibitions, and file disclosure reports resulted in an agreement to:

- pay a \$750,000 civil penalty;
- cease and desist from further violating the law and regulations; and
- file reports with the Commission for the relevant periods containing all of the information that must be disclosed by Federal political committees.

Case Summary:

1. [MUR 5487](#)
 RESPONDENTS: Progress for America Voter Fund (PFA-VF)
 COMPLAINANT: (a) Democracy 21
 (b) Campaign Legal Center
 (c) Center for Responsive Politics
 SUBJECT: Failure to register as a political committee; failure to report contributions and expenditures; knowingly accepting excessive contributions from individuals; knowingly accepting corporate contributions
 DISPOSITION: Conciliation Agreement: \$750,000 civil penalty*
 The complaint alleged that the PFA-VF violated various provisions of the Act by failing to register with the Federal Election Commission as a political committee. The complaint further alleged that PFA-VF failed to file necessary disclosure reports and comply with FECA's contribution limits and source prohibitions. The Commission found reason to believe that PFA-VF was a political committee and had violated the registration and reporting requirements and contribution limits and prohibitions of the Act.
 DOCUMENTS ON PUBLIC RECORD: Documents from this matter are available from the Commission's web site at <http://www.fec.gov> by entering 5487 under case numbers in the Enforcement Query System. They are also available in the FEC's Public Records Office at 999 E St. NW in Washington.

*There are four administrative stages to the FEC enforcement process:

1. Receipt of proper complaint
2. "Reason to believe" stage
3. "Probable cause" stage
4. Conciliation stage

It requires the votes of at least four of the six Commissioners to take any action. The FEC can close a case at any point after reviewing a complaint. If a violation is found and conciliation cannot be reached, then the FEC can institute a civil court action against a respondent.

MUR 5487

Progress For America Voter Fund

QUICK REFERENCE SHEET

BASIC FACTS

- The Commission found reason to believe that Progress for America Voter Fund (PFA-VF) violated four provisions of the Federal Election Campaign Act:
 - 2 U.S.C. § 433 (failure to register with the Commission as a political committee);
 - 2 U.S.C. § 434 (failure to report contributions and expenditures to the Commission);
 - 2 U.S.C. § 441a(f) (knowingly accepting contributions in excess of \$5,000 from individuals); and
 - 2 U.S.C. § 441b(a) (knowingly accepting corporate contributions).
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- PFA-VF is a 527 organization. Progress for America, Inc., a non-profit corporation organized under Section 501(c)(4) of the Internal Revenue Code, is listed on PFA-VF's IRS 8871 form as a connected entity of PFA-VF.
 - PFA-VF filed a Notice of 527 Status with the IRS in May 2004. According to the Conciliation Agreement, PFA-VF was formed to "[f]ocus primarily on TV & radio in key battleground states serving as [sic] counter-balance to liberal 527 committees."
 - PFA-VF did not register with the FEC as a Federal political committee.
 - Between May 27, 2004 and the November 2, 2004 General Election, PFA-VF spent \$26.4 million on nine television advertisements in Arkansas, Florida, Iowa, Minnesota, Missouri, Nevada, New Hampshire, Massachusetts, New Mexico, Ohio, Pennsylvania, Wisconsin and on national cable networks. All of these advertisements praised Bush's leadership as President and/or criticized Senator Kerry's ability to provide similar leadership.

CONTRIBUTIONS

- PFA-VF made most solicitations for funds by email communication; it also solicited funds in two direct mailings, on its website, and through private meetings and conversations.
- PFA-VF's solicitations clearly indicated that the funds sought would be used to target the election or defeat of specific Federal candidates. Funds received in response to such solicitations are "contributions" under the Act.
- Virtually all of the email solicitations reference George Bush and John Kerry and state that "Liberal 527 Organizations" are outspending President Bush by a significant margin. They also make clear that the funds received will be used to counter "liberal 527 Organizations" by running advertisements promoting George Bush and/or opposing John Kerry in specific states.
- PFA-VF raised \$44.9 million in contributions in the five months before the 2004 General Election, over 70% of which came from just thirteen donors according to IRS reports. Of this amount, PFA-VF accepted \$41,613,000 in amounts exceeding the legal limit of \$5,000 per individual for Federal PACs and \$2,465,000 from prohibited sources.

EXPENDITURES

- Certain television advertisements run by PFA-VF before the 2004 General Election expressly advocated the election or defeat of a clearly identified candidate. For example, "Veterans" was run in eight battleground states in September 2004, less than two months before the General Election, at a total cost of \$1.56 million.

"Veterans"

Four veterans from the frontlines of Iraq and Afghanistan. President Bush will be the best man to lead us in the war against terror. President Bush sticks to his policies. I'd ask Senator Kerry why would you vote to go to war but vote not to support troops over there. I don't think that Senator Kerry has what it takes. He doesn't have the resolve. Progress for America Voter Fund is responsible for the content of this message.

- In addition, "Why do we fight?" was run in five battleground states in July 2004 at a total cost of \$521,524.

"Why do we fight?"

Why do we fight? Years of defense and intelligence cuts left us vulnerable. We fight now because America is under attack. Positions are clear. A president, who fights to defeat terrorists before they can attack again. Or the nation's most liberal senator with a 30-year record of supporting defense and intelligence cuts. The war is against terror. And President Bush has the strength and courage to lead us to victory. Progress for America Voter Fund is responsible for the content of this ad.

- These express advocacy communications constitute "expenditures" under the Act.

CONCILIATION AGREEMENT

- PFA-VF will pay a civil penalty of \$750,000 and has agreed to cease and desist from further violating the provisions of the law at issue here.
- This Agreement settles all alleged violations as to PFA-VF's status and obligations as a Federal political committee.
- PFA-VF will file reports with the FEC containing all information that it should have disclosed as a Federal PAC. The Commission has agreed that this obligation may be met by filing copies of its IRS reports with the FEC, along with certain supplemental information.
- The Agreement requires PFA-VF to register and report as a Federal PAC if it engages in activities that trigger Federal political committee status in the future.

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