

## REPRESENTATIVE VERN BUCHANAN

Representative Vern Buchanan (R-FL) is a two-term member of Congress representing Florida's 13<sup>th</sup> district. His ethics issues stem from pressuring his employees to make contributions to his campaign committee and improper use of corporate resources for campaign purposes. Rep. Buchanan was included in CREW's 2008 congressional corruption report.

### Conduit Contributions

Rep. Buchanan owns several car dealerships in Florida and after he began his congressional campaign in 2005, in one seven-day period, he raised \$110,000 from employees of his numerous car dealerships.<sup>1</sup> Several employees have since alleged that Rep. Buchanan pressured them to make contributions to his campaign committee.<sup>2</sup>

According to the sworn affidavits of Carlo A. Bell<sup>3</sup> and David J. Padilla, employees of Rep. Buchanan's Automobile Holdings, Inc. (BAH), including employees of Venice Nissan Dodge and Sarasota Ford, were either reimbursed with corporate funds for making \$1,000 contributions to Rep. Buchanan's 2006 congressional campaign, or were coerced into making contributions.<sup>4</sup>

Mr. Bell, the former finance director at Venice Nissan Dodge, stated that on September 15, 2005, Don Caldwell, the general manager of Venice Nissan Dodge, called him into a meeting with Jack Prater, the Dodge sales manager, and Jason Martin, the Dodge finance manager and Mr. Caldwell's nephew.<sup>5</sup> According to Mr. Bell,

Mr. Caldwell shut the door to the office and told the three of us that we needed to contribute to the campaign of Vern Buchanan, who was then running for Congress in Florida's 13<sup>th</sup> congressional district. Mr. Caldwell was holding cash in his hand at the time and said that the company would reimburse us for our contributions. He explained that the company would give us \$1,000 cash in exchange for our writing \$1,000 checks to the campaign.<sup>6</sup>

Mr. Bell asked Mr. Caldwell if this was legal, but rather than answering, Mr. Caldwell instead asked if Mr. Bell was on the team or not.<sup>7</sup> Afraid that he might lose his job, Mr. Bell

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<sup>1</sup> Jeremy Wallace, Buchanan Workers Tell of Donation Pressure, *Herald Tribune*, July 24, 2008 (Exhibit 1).

<sup>2</sup> Id.

<sup>3</sup> Exhibit A to FEC Complaint filed by Citizens for Responsibility and Ethics in Washington, Carlo Bell and David Padilla, Affidavit of Carlo A. Bell, filed August 19, 2008 (hereinafter "Bell Affidavit") (Exhibit 2).

<sup>4</sup> Exhibit D to FEC Complaint filed by Citizens for Responsibility and Ethics in Washington, Carlo Bell and David Padilla, Affidavit of David Padilla, filed August 19, 2008 (hereinafter "Padilla Affidavit") (Exhibit 3).

<sup>5</sup> Bell Affidavit.

<sup>6</sup> Id.

<sup>7</sup> Id.

replied yes, he was a part of the team and agreed to write the check.<sup>8</sup> Mr. Caldwell then handed \$1,000 to Mr. Bell, Mr. Prater, and Mr. Martin.<sup>9</sup> Mr. Bell later discussed the meeting with Mr. Prater and Mr. Martin and all agreed it seemed wrong to accept cash to write checks to the Buchanan campaign, but they were “afraid that refusing to do so might endanger [their] employment with Venice Nissan Dodge.”<sup>10</sup> Mr. Bell subsequently learned that two other Venice Nissan Dodge employees, Marvin White and William Mullins, also received \$1,000 cash reimbursements when they agreed to write checks to the Buchanan campaign.<sup>11</sup>

On September 15, 2005, the same day he was given the \$1,000 by Mr. Caldwell, Mr. Bell deposited \$960 in cash to his bank account, keeping the remaining \$40 for spending money.<sup>12</sup> On September 17, 2005, Mr. Bell wrote a check to the Buchanan campaign for \$1,000.<sup>13</sup>

Mr. Bell’s account of the reimbursement scheme is confirmed by David J. Padilla, a finance manager at Venice Nissan Dodge in 2005.<sup>14</sup> In September 2005, Mr. Padilla was approached by Brad Combs, another finance manager at Venice Nissan Dodge, who told him “Mr. Buchanan needed campaign contributions and that anyone who made a contribution would get his money back plus additional compensation.”<sup>15</sup> When Mr. Padilla refused to participate in the reimbursement scheme, Mr. Combs told him “that all of the managers were being asked to contribute and that many were planning to accept reimbursements in exchange for contributions.”<sup>16</sup> Mr. Padilla later discovered that several other Venice Nissan Dodge employees, including Mr. Bell, Mr. Prater, and Mr. Martin, had been reimbursed for making \$1,000 contributions to Mr. Buchanan’s congressional campaign.<sup>17</sup>

The reimbursement scheme was not limited to Venice Nissan Dodge. Joseph Kezer, the former finance director of Sarasota Ford, said he personally observed campaign finance violations before Rep. Buchanan’s 2006 general election and that some of the \$8 million spent by the Buchanan campaign in 2006 was “laundered corporate cash funneled through higher-ups at Buchanan’s numerous dealerships.”<sup>18</sup> Mr. Kezer “fielded phone calls from other dealership executives wanting to know whether company reimbursement checks they had cashed put them

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<sup>8</sup> Bell Affidavit.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Bell Affidavit; Vern Buchanan for Congress, FEC Form 3, October Quarterly Report 2005, October 14, 2005, pp. 76, 88, 99, 129 (Exhibit 4).

<sup>12</sup> Bell Affidavit.

<sup>13</sup> Id.; Exhibit B to FEC Complaint filed by Citizens for Responsibility and Ethics in Washington, Carlo Bell and David Padilla, filed August 19, 2008, Cancelled Check and Deposit Slip (Exhibit 5).

<sup>14</sup> Padilla Affidavit.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Matthew Murray, Buchanan Faces Another Lawsuit, *Roll Call*, June 2, 2008 (Exhibit 6).

in legal peril.”<sup>19</sup> He said, “After it happened, a couple of [managers] contacted me because they were concerned . . . I didn’t know at the time . . . whether it was a good thing or a bad thing.”<sup>20</sup>

Mr. Kezer also alleges that he was pressured to make a contribution and that as a further reward, Rep. Buchanan offered him the use of his vacation house in Vail, Colorado.<sup>21</sup> Aware that it might not be legal, but fearing for his job, Mr. Kezer made a contribution of \$2,000 to Rep. Buchanan’s campaign committee.<sup>22</sup> Neither Mr. Kezer nor Mr. Bell ever donated to a political campaign before or after donating to Rep. Buchanan.<sup>23</sup>

Another former employee, Richard Thomas, who was the director of fixed operations for one of Rep. Buchanan’s dealerships, has alleged that Rep. Buchanan repeatedly used dealership cars for campaign purposes.<sup>24</sup> Mr. Thomas has alleged that vehicles were taken out of inventory for use by the campaign and when returned, would frequently contain campaign materials such as literature and posters, which would be cleaned out, and the cars detailed by dealership staff before the cars were made available to customers.<sup>25</sup> The dealership may not have been paid fair market value for the use of the vehicles.<sup>26</sup> Rep. Buchanan also stored campaign materials at the dealership.<sup>27</sup>

### **Coercing Contributions**

The Federal Election Campaign Act (“FECA”) and Federal Election Commission (“FEC”) regulations specifically prohibit corporations from using job discrimination, financial reprisals, or the threat of job discrimination or financial reprisals to force employees to make political contributions.<sup>28</sup> Corporations are also prohibited from facilitating the making of contributions to federal candidates. FEC regulations specifically cite as an example of illegal corporate facilitation “Using coercion, such as the threat of a detrimental job action, the treat of any other financial reprisal, or the threat of force, to urge any individual to make a contribution or engage in fundraising activities on behalf of a candidate or political committee.”<sup>29</sup>

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<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> Jeremy Wallace and Carol E. Lee, Official Denies Donation Pressure, *Herald Tribune*, July 29, 2008 (Exhibit 7).

<sup>22</sup> Id.; Vern Buchanan for Congress, FEC Form 3, October Quarterly Report 2005, October 14, 2005, p. 64 (Exhibit 8).

<sup>23</sup> Wallace, *Herald Tribune*, Jul. 29, 2008.

<sup>24</sup> Richard Thomas v. Sarasota 500, Complaint (12<sup>th</sup> Cir. Fla.), ¶¶ 141, 142 (Exhibit 9).

<sup>25</sup> Id., ¶¶ 142-143.

<sup>26</sup> The FEC reports filed by Vern Buchanan for Congress in the 2006 election cycle show one payment made to Sarasota Ford in the amount of \$600 for “transportation.” Vern Buchanan for Congress, FEC Form 3, October Quarterly Report 2005, October 14, 2005, p. 151 (Exhibit 10).

<sup>27</sup> Richard Thomas v. Sarasota 500, ¶ 144.

<sup>28</sup> 2 U.S.C. § 441b(b)(3)(A); 11 C.F.R. § 114.5(a)(1).

<sup>29</sup> 11 C.F.R. § 114.2(f)(2)(iv).

By using coercion, including the implied threat of detrimental job action, to force employees of the Buchanan automobile dealerships to make contributions to the 2006 Buchanan campaign, Rep. Buchanan, Don Caldwell, Brad Combs, Venice Nissan Dodge, Sarasota Ford and BAH violated 2 U.S.C. § 441b(b)(3)(A) and 11 C.F.R. § 114.2.

### **Conduit Contributions**

FECA and FEC regulations both prohibit the making of a contribution in the name of a person other than the true source of the contribution.<sup>30</sup> By reimbursing employees for contributions made to the 2006 Buchanan campaign, Rep. Buchanan, Don Caldwell, Brad Combs, Venice Nissan Dodge, Sarasota Ford and BAH violated 2 U.S.C. § 441f and 11 C.F.R. § 110.4(b)(1)(I).

### **Corporate Contributions**

FECA and FEC regulations both prohibit corporations from making contributions in connection with any federal election, including elections for the House of Representatives.<sup>31</sup> By reimbursing employees with corporate funds for contributions made to the 2006 Buchanan campaign, BAH, Venice Nissan Dodge and Sarasota Ford, and Vern Buchanan, Don Caldwell and Brad Combs, as officers or directors of BAH and/or Venice Nissan Dodge and/or Saratoga Ford, violated both 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(a).

Similarly, by lending the Buchanan congressional committee vehicles for use in connection with the campaign, and by allowing the campaign committee to store campaign materials at the dealership, the dealership made illegal in-kind corporate contributions in violation of 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(a).

## **2009 UPDATE**

### **Additional Conduit Contribution**

In 2009, an additional allegation of a conduit contribution to Rep. Buchanan's campaign committee surfaced.<sup>32</sup> Terry Keith Howell, a registered Democrat, claimed he had been reimbursed for donations he had unwillingly made to Rep. Buchanan's campaign.<sup>33</sup> According to a deposition he gave in a lawsuit, Mr. Howell claimed the \$8,800 contribution he made to Rep. Buchanan and the \$10,000 he gave to the Republican Party of Florida were paid by Timothy Mobley, "a Tampa developer whose relatives and employees were the single largest group of contributors to Buchanan."<sup>34</sup> Mr. Mobley was Mr. Howell's business partner in a

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<sup>30</sup> 2 U.S.C. § 441f; 11 C.F.R. § 110.4(b)(1)(I).

<sup>31</sup> 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(a).

<sup>32</sup> Susan Taylor Martin, Hard Times, Large Checks, *St. Petersburg Times*, June 20, 2009 (Exhibit 11).

<sup>33</sup> Id.

<sup>34</sup> Id.

trucking company.<sup>35</sup> Mr. Howell said, “Tim Mobley told me that Vern Buchanan is somebody good to have on your side, because he was going to be in charge of overseeing the DOT transportation stuff, so the amount of favors he could do for us was enormous.”<sup>36</sup> Notably, Mr. Howell was in bankruptcy at the time he made the contributions.<sup>37</sup>

CREW’s FEC complaint against Rep. Buchanan remains unresolved.

### **Business Holdings**

In November 2008, Rep. Buchanan announced he planned to sell more of his business holdings to “reduce [his] exposure” to lawsuits and uncomfortable political situations.<sup>38</sup>

In December 2008, instead of recusing himself, Rep. Buchanan voted against the Auto Industry Financing and Restructuring Act, also known as the “auto bailout.”<sup>39</sup> In contrast, Rep. John Campbell (R-CA), who also had a pecuniary interest in a car dealership and was concerned about the potential conflict-of-interest, voted “present” on the bailout.<sup>40</sup> Later, however, Rep. Buchanan voted “present” on the “Cash for Clunkers” program.<sup>41</sup>

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<sup>35</sup> Id.

<sup>36</sup> Martin,, *St. Petersburg Times*, Jun. 20, 2009.

<sup>37</sup> Id.

<sup>38</sup> Jeremy Wallace, Less Business, More Politics for Buchanan, *Sarasota Herald Tribune*, November 19, 2008 (Exhibit 12).

<sup>39</sup> <http://clerk.house.gov/evs/2008/roll690.xml> (Exhibit 13).

<sup>40</sup> Id.; Carol E. Lee, Auto Bailout May Affect Buchanan’s Wallet, *Politico*, December 9, 2008 (Exhibit 14).

<sup>41</sup> <http://clerk.house.gov/evs/2009/roll314.xml> (Exhibit 15); Larry Webster, The Case Against Cash For Clunkers: Analysis, *Popular Mechanics*, June 25, 2009 (Exhibit 16).