



Eric T. Schneiderman  
Attorney General  
120 Broadway - 3rd Floor  
New York, NY 10271

November 7, 2012

Dear Attorney General Schneiderman:

Citizens Union requests that your office investigate whether [Common Sense Principles](#)<sup>1</sup>, a little-known entity making political expenditures and communications in New York, should register with the Charities Bureau of the Office of the Attorney General and thereby disclose its financial information.

Common Sense Principles is just one of many third party veiled political actors that have exploded on to the political scene across the country – and in New York – during the 2012 campaign season by making political expenditures independent of candidate campaign committees. Citizens Union believes this spending should be robustly disclosed so that voters know the entities and individuals behind political communications and can take into account such information when casting their vote. While we believe the law should be clarified so this information would be disclosed according to a schedule that mirrors the rhythms of the campaign season with the State Board of Elections, the requirement that 501c4 organizations register with the Charities Bureau is the only existing mechanism to acquire important identifying information about 501c4 organizations that engage in electioneering communications.

[The New York Times](#)<sup>2</sup> and the [Rochester Democrat and Chronicle](#)<sup>3</sup> both reported last month that Common Sense Principles, based out of Virginia, has sent mailers to registered voters attacking Democratic candidates in several state senate districts. The organization's website reveals mail pieces sent to voters in the 55th senate district chastising Democratic candidate Ted O'Brien for supporting a judge who was accused of sexual harassment. Likewise, pieces of mail sent to voters in 15th senate district scold Democratic incumbent Joe Addabbo for taking campaign contributions

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<sup>1</sup> [www.commonenseprinciples.com](http://www.commonenseprinciples.com)

<sup>2</sup> "New York Senate Races Flooded by Money from Outside Groups," *New York Times*. October 16, 2012. Available at: <http://www.nytimes.com/2012/10/17/nyregion/3-new-york-senate-races-flooded-by-money-from-outside-groups.html>

<sup>3</sup> "New York law allows PAC backers to stay anonymous," *Democrat and Chronicle*. October 8, 2012. Available at: [http://www.democratandchronicle.com/%2Farticle%2F20121008%2FNEWS01%2F310080020%2FCommon-Sense-Principles-PAC%3Fnclick\\_check%3D1](http://www.democratandchronicle.com/%2Farticle%2F20121008%2FNEWS01%2F310080020%2FCommon-Sense-Principles-PAC%3Fnclick_check%3D1)

from the gaming industry and not sponsoring a constitutional amendment to establish codes of ethics for each branch of government. A third mailer attacks Senate Democratic candidate George Latimer, who is running in an open seat in Westchester (senate district 37), for using campaign funds for personal dinners, going against a county-level term limits pledge, and for missing votes. Common Sense Principles in 2010 ran attack ads against then-State Senators Darrel Aubertine, Brian Foley, and Bill Stachowski in addition to Senators David Valesky, Andrea Stewart-Cousins, and Suzi Oppenheimer.<sup>4</sup>

The organization is seemingly not required to report its campaign spending to the State Board of Elections because of the Board's interpretation of the law that only requires disclosure of independent expenditures when express advocacy language like "vote for" or "vote against" is used in political communications. Consequently, voters are unaware of who is sending them these political messages. This lack of disclosure can be partially offset, however, by the diligent reporting of journalists covering these races and by your office.

Chapter V (Charitable Uses and Purposes), Title 13 of the New York Code of Rules and Regulations for Registration of Charitable Organizations, Trusts and Estates, Part 91.2 states the following:

["Article 7-A of the Executive Law"](#) requires registration of charitable and other non-profit organizations that solicit contributions from New York State (including residents, foundations, corporations, government agencies and other entities). [Section 8.1-4 of the Estates, Powers and Trust Law](#) requires registration of charitable organizations that are incorporated, are formed, or otherwise conduct activity in New York State."<sup>5</sup>

Common Sense Principles is not currently registered with the Charities Bureau in your office, which raises the question of whether it is violating 8.1-4 of the Estates, Powers and Trusts Law, as it appears to conduct activity in New York State by sending mailers to voters in selected campaigns. It is also possible that if the organization is soliciting funds in New York State, it is in violation of Article 7-A of the Executive Law. Multiple publicly available sources and the organization's 2010 990 tax forms reveal that Common Sense Principles is a social welfare organization founded in 2010 as a 501c4 organization to "further the common good and general welfare of the Citizens of the United States of America by advocating smaller government and responsible tax and budget policies" by "engage[ing] in issue advocacy direct mail to individuals about budget policies in close proximity to an election."<sup>6</sup> In 2010 it raised \$2.6 million in revenue

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<sup>4</sup> "Common Sense author is a mystery," *Watertown Daily Times*. August 18, 2010. Available at: <http://www.watertowndailytimes.com/article/20100818/BLOGS09/100819832/-1//BLOGS09>

<sup>5</sup> While Title 13 of the New York Code of Rules and Regulations for Registration of Charitable Organizations, Trusts and Estates, Part 91.2 states that the standard for registering a charitable organization pursuant to 8.1-4 of the Estates, Powers and Trust Law is "conducting activity" in the law itself the standard is "doing business."

<sup>6</sup> Common Sense Principles, IRS 990 form, Part IV supplemental information, p. 19.

from unknown sources while spending \$2.5 million.<sup>7</sup> Its address is PO Box 96 in Midlothian, Virginia, 23113-0096. Its tax ID number is 800580228.<sup>8</sup>

Citizens Union requests that your office investigate why Common Sense Principles has not registered with the Charities Bureau in each year since 2010. As you know, had Common Sense Principles registered with the Charities Bureau, its organizational structure, activities, by-laws and certificate of incorporation would be made known to the public. Common Sense Principles may also be required to file annually detailed financial information including any professional fundraisers hired, contact information for such fundraising professional(s), the services provided and the terms of the contract and fees paid.

Citizens Union encourages your office to pursue civil or criminal actions or proceedings as necessary for failure to register and file reports pursuant to any provision of ETPL Article 8 or Article 7-A, any other law or common law.

We also request that you, as permissible by law, refer any forthcoming financial information that is reported by Common Sense Principles to the Joint Commission on Public Ethics (JCOPE). As Common Sense Principles' campaign ads are considered lobbying rather than independent campaign expenditures by the State Board of Elections, we want to ensure that after January 1, 2013, JCOPE can determine whether Common Sense Principles meets the financial thresholds for reporting sources of income for lobbying activities for the previous six months that includes the period during which these mailers have been sent.

While registration and submission of annual reports with the Charities Bureau is insufficient in providing timely information to voters about the campaign communications of third-party political actors, it is essential that you, as a statewide elected representative of in New York, use all existing laws at your disposal to prevent anonymous entities from influencing our elections through sham issue advocacy.

We look forward to your response and stand ready to assist you in handling our complaint.

Regards,

Dick Dadey  
Executive Director

Alex Camarda  
Director of Public Policy & Advocacy

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<sup>7</sup> <http://www.guidestar.org/organizations/80-0580228/common-sense.aspx#idReportSectionForms990Quick>

<sup>8</sup> <http://non-profit-organizations.findthebest.com/l/1775695/Common-Sense>;  
<http://www.nonprofitfacts.com/VA/Common-Sense.html>; <https://www.fundraise.com/non-profit/midlothian-va-common-sense>