

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GEOFFREY NELS FIEGER,

Plaintiff,

v.

FEDERAL ELECTION COMMISSION,

Defendant.

Civil No. 2:08-14125

Hon. David M. Lawson

**DEFENDANT FEDERAL ELECTION COMMISSION'S
ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT
FOR INJUNCTIVE RELIEF**

Defendant Federal Election Commission ("FEC" or "Commission") submits this answer to Plaintiff's First Amended Complaint for Injunctive Relief. Any allegation not specifically responded to below is DENIED.

1. The Commission is without knowledge or information sufficient to form a belief as to the truth of these allegations.

2. The Commission is without knowledge or information sufficient to form a belief as to the number of occasions on which plaintiff has accused the "Bush Justice Department of conspiring with the Commission to politicize the enforcement of federal campaign finance laws." The Commission ADMITS that Fieger made a similar allegation in paragraph 1 of his Complaint in *Fieger v. Gonzales*, Civ. No. 07-10533 (E.D. Mich. filed Feb. 5, 2007). The district court dismissed that case on August 15, 2008. *Id.*, 2007 WL 2351006 (E.D. Mich. 2007), *aff'd sub nom.*, *Fieger v. Attorney General*, 542 F.3d 1111 (6th Cir. 2008).

3. The Commission DENIES the first sentence. The Commission ADMITS that Michael E. Toner was nominated to the Commission by President Bush on March 4, 2002, and that he was confirmed by the United States Senate on March 18, 2003. The Commission ADMITS that Commissioner Toner served as Chairman for calendar year 2006, and that he resigned from the Commission on March 14, 2007. The Commission ADMITS that prior to his service on the Commission, Mr. Toner held the prior positions identified by plaintiff, among others.

4. DENY.

5. ADMIT.

6. The Commission DENIES that Plaintiff Geoffrey N. Fieger requested documents from the Commission under the FOIA by letter dated July 3, 2008. The Commission ADMITS that Michael R. Dezsi mailed to the Commission the July 3, 2008 letter attached to plaintiff's Complaint as Exhibit A. The remainder of the paragraph characterizes the letter, which speaks for itself.

7. The Commission ADMITS that it is an agency of the United States subject to provisions of the Freedom of Information Act ("FOIA"). The Commission affirmatively states that, in response to the FOIA request described in ¶ 7, the Commission mailed a letter on September 30, 2008 to Michael R. Dezsi, along with material responsive to that request.

8. DENIED. The Commission provided responsive materials on September 30, 2008. On that date the Commission advised the requestor of his administrative appeal rights, which the requestor failed to pursue.

9. The Commission DENIES that Plaintiff Geoffrey Fieger has a right of access to the requested information, because he has not requested documents from the Commission under the FOIA. The Commission DENIES that it has failed to comply with federal law.

10. The Commission DENIES that Plaintiff Geoffrey N. Fieger requested documents from the Commission under the FOIA by letter dated October 27, 2008. The Commission ADMITS that Michael R. Dezsi mailed to the Commission the letter, dated October 27, 2008 attached to plaintiff's Complaint as Exhibit B. The remainder of the paragraph characterizes the letter, which speaks for itself.

11. ADMIT. The Commission also provided responsive materials on December 3, 2008.

12. ADMIT.

13. DENIED. On December 3 and December 31, 2008, the Commission provided documents responsive to the request that were not exempt under the FOIA. Pursuant to the Commission's FOIA regulations, the Commission notified the requester on December 31, 2008 that it had referred certain responsive documents that originated from the White House to that entity for consultation.

14. DENIED. The Commission provided responsive materials on December 3 and 31, 2008.

15. The Commission DENIES that Plaintiff Geoffrey Fieger has a right of access to the requested information, because he has not requested documents from the Commission under the FOIA. The Commission DENIES that it has failed to comply with federal law.

The final paragraph contains a request for relief to which no response is required. However, if an answer may be deemed necessary, the Commission DENIES that Plaintiff

Geoffrey Fieger is eligible for or entitled to any relief. Therefore, the Commission requests that plaintiff's complaint be dismissed.

Affirmative Defenses

1. Plaintiff has failed to state a claim upon which relief can be granted.
2. This Court lacks subject-matter jurisdiction over plaintiff's claim.

WHEREFORE, the FEDERAL ELECTION COMMISSION respectfully requests that this Honorable Court dismiss the Complaint in this case.

Respectfully submitted,

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March 9, 2009

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on March 9, 2009 he electronically filed the foregoing Defendant Federal Election Commission's Answer and a Motion for Waiver of the Local Rule 83.20(f) with the Clerk of the Court for the United States District Court for the Eastern District of Michigan. The Court's ECF system will send notification electronically of such filing to the following counsel of record:

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