

applicable regulation and reasonable in light of the Kuhn Committee's failure to timely disclose hundreds of thousands of dollars of federal campaign activity. (FEC Mot. at 15-19.)

The Kuhn Committee also claims that it was denied a fair hearing in part because of comments by FEC staff. In fact, Commission staff informed the Kuhn Committee that it *could* file a challenge to the Commission's reason-to-believe finding, while also in candor explaining that the circumstances of the failure to timely file were unlikely to constitute a successful ground for challenge under the applicable regulation. (FEC Mot. at 21-22; AR065.) After explicitly being put on notice orally and in writing that it could file a challenge, the Kuhn Committee *chose* not to participate in the administrative process. (FEC Mot. at 21-22.) That choice was a failure to take advantage of available procedures, not a denial of due process. (*Id.*)

For the reasons stated above, the Court should grant the Commission's motion, dismiss the Kuhn Committee's petition for review, and, to the extent that the Kuhn Committee has filed a cross-motion, deny the Kuhn Committee's motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Erin Chlopak, an attorney of record in this case, hereby certify that on this 21st day of April, 2014, I electronically filed the foregoing document with the Clerk of the United States District Court for the District of South Carolina, using the Court's electronic case filing system. I further certify that I have served all counsel of record electronically in the manner authorized by Federal Rule of Civil Procedure 5(b)(2)(E) and Local Civil Rule 5.05 DSC.

/s/ Erin Chlopak
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