

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DAVE LEVINTHAL, <i>et al.</i> ,)	
)	
Plaintiffs,)	Civ. No. 15-1148 (JEB)
)	
v.)	
)	
FEDERAL ELECTION COMMISSION,)	ANSWER
)	
Defendant.)	
)	

DEFENDANT FEDERAL ELECTION COMMISSION’S ANSWER

Defendant Federal Election Commission (“FEC” or “Commission”) submits this answer to the Complaint for Declaratory and Injunctive Relief filed by plaintiffs Dave Levinthal and the Center for Public Integrity. Any allegation not specifically responded to below is DENIED.

1. This paragraph summarizes plaintiffs’ complaint, the allegations of which speak for themselves, and requires no response. To the extent a response is required, ADMIT that this case is an action under the Freedom of Information Act (“FOIA”), but DENY that this action concerns any FOIA request for “agency records related to Medicare Advantage plans.”

2. ADMIT that the Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. DENY that 28 U.S.C. § 2201(a) grants the Court jurisdiction.

3. ADMIT.

4-5. The Commission is without knowledge or information sufficient to admit or deny the allegations in these paragraphs.

6. ADMIT that plaintiffs have submitted a request under FOIA for certain records from the FEC. *See infra* ¶ 8. Plaintiffs' generalized reference to unspecified "withheld records" is otherwise too vague to admit or deny.

7. ADMIT the first sentence on this paragraph. ADMIT the Commission is in possession of certain records referenced in paragraph 8 of plaintiffs' complaint, but DENY that the Commission has exclusive possession and control over many of those records at this time and DENY that the Commission is in possession of and control over the records described in the first paragraph of plaintiffs' complaint.

8. This paragraph describes the FOIA request at issue in this case, which speaks for itself, and requires no response. To the extent a response is required, ADMIT that plaintiffs submitted a FOIA request on August 14, 2014, and that the request contained the quoted language in this paragraph.

9. ADMIT.

10. ADMIT the statements in paragraph 10 but DENY that they constitute a complete recitation of the Commission's response as of this date.

11. DENY that the Commission has not yet made a determination within the meaning of 5 U.S.C. § 552(a)(6)(A)(i).

12. ADMIT the first sentence of this paragraph. The remainder of this paragraph is a legal conclusion and does not require a response.

13. ADMIT that plaintiffs have a statutory right to a portion of the records requested in the August 14, 2014 FOIA request. DENY that plaintiffs have a statutory right to all of the requested records. DENY that there is no legal basis for the Commission not making all of the requested records available at this time.

REQUESTED RELIEF

The Court should deny plaintiffs' requested relief.

Respectfully submitted,

Daniel A. Petalas (D.C. Bar No. 467908)
Acting General Counsel
dpetalas@fec.gov

Lisa J. Stevenson (D.C. Bar No. 457628)
Deputy General Counsel
lstevenson@fec.gov

Kevin Deeley
Acting Associate General Counsel
kdeeley@fec.gov

Erin Chlopak (D.C. Bar No. 496370)
Acting Assistant General Counsel
echlopak@fec.gov

/s/ Greg J. Mueller

Greg J. Mueller (D.C. Bar No. 462840)
Attorney
gmueller@fec.gov

COUNSEL FOR DEFENDANT
FEDERAL ELECTION COMMISSION
999 E Street NW
Washington, DC 20463
(202) 694-1650

September 4, 2015