

greater extent than others, particularly penalizing the emergence of spontaneous, grassroots political expression when it is most vital—in the days leading up to an election.

Further underscoring the arbitrary and indefensible structure of the current system is that the ability of certain political committees to engage in *other* forms of political expression and association becomes limited *after* they have existed for more than six months. A newly formed political committee may, within the first six months of its existence, contribute an annual total of \$10,000 to a state political party committee and its affiliated local political party committees, as well as \$32,400 annually to a national political party committee. Once many such committees have existed for more than six months, however, those limits are *decreased* to a total of \$5,000 each year to a state party committee and its local affiliates, as well as \$15,000 annually to national political party committees. This impermissibly abrogates the associational rights of both those committees and their individual members.

This bizarre amalgamation of increasing and decreasing contribution limits based on the duration of an entity's existence cannot survive constitutional scrutiny.

Jurisdiction and Venue

1. This Court has subject-matter jurisdiction over this case pursuant to 28 U.S.C. § 1331, as it arises under the First Amendment to the U.S. Constitution and concerns the constitutionality of various provisions of federal law.

2. Venue is proper in this Court under 28 U.S.C. § 1391(e)(1)(B)-(C), because the defendant is an agency of the United States, a substantial part of the events and omissions giving rise to the claim occurred in this district, and Plaintiffs Stop the Reckless Economic Instability Caused by Democrats, Tea Party Leadership Fund, and Alexandria Republican City Committee reside here, *see id.* § 1391(c)(2).

Parties

3. Plaintiff STOP THE RECKLESS ECONOMIC INSTABILITY CAUSED BY DEMOCRATS (“STOP PAC”) is a non-connected political committee (“PAC”) that maintains its principal place of business in Alexandria, Virginia. It filed its registration with the Federal Election Commission (“FEC”) on February 24, 2014, and resubmitted its registration form on April 4, 2014, after the FEC failed to post the original one on its website.

4. Plaintiff TEA PARTY LEADERSHIP FUND (“Fund”) is a non-connected multicandidate political committee (“multicandidate PAC”) that is registered and maintains its principal place of business in Alexandria, Virginia. It filed its registration with the FEC on May 9, 2012.

5. Plaintiff ALEXANDRIA REPUBLICAN CITY COMMITTEE (“ARCC”) is a local political party committee and is affiliated with the Virginia Republican State Committee, a state political party committee. It maintains its principal place of business in Alexandria, Virginia.

6. Defendant FEDERAL ELECTION COMMISSION (“FEC”) is located in Washington, D.C. It is the federal agency charged with enforcing the FECA and BCRA.

The Discriminatory Contribution Limits

7. The FECA allows individuals to join together to form “political committees” to further their political goals, engage in expressive conduct, and support candidates who share their goals and values. 2 U.S.C. § 431(4).

8. In general, the FECA treats a political committee as a “person.” 2 U.S.C. § 431(11).

9. The FEC announced the inflation-adjusted limits for contributions by political committees and other entities on February 6, 2013. *See* FEC, *Price Index Adjustments for*

Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 78 FED. REG. 8,530, 8,532 (Feb. 6, 2013).

10. Taking into account the FEC's adjustments for inflation, a "person"—including a political committee—generally may contribute the following amounts in the current (2013-2014) election cycle:

a. \$2,600 per election to any candidate for federal office, for a maximum of \$5,200 per election cycle (including the primary and general elections), *see* 2 U.S.C. § 441a(a)(1)(A);

b. a total of \$10,000 per year to a state political party committee and its affiliated local political party committees, *see* 2 U.S.C. § 441a(a)(1)(D); and

c. \$32,400 per year to any national political party committee, *see* 2 U.S.C. § 441a(a)(1)(B), such as the Democratic National Committee, Republican National Committee, Democratic Senatorial Campaign Committee, National Republican Senatorial Committee, Democratic Congressional Campaign Committee, and National Republican Congressional Committee.

11. A political committee qualifies as a "multicandidate political committee," and becomes subject to different contribution limits, if it has:

a. been registered with the FEC for six or more months;

b. received contributions from more than 50 persons; and

c. contributed to five or more candidates for federal office. 2 U.S.C.

§ 441a(a)(4).

12. Taking into account the FEC's adjustments for inflation, a "multicandidate political committee" generally may contribute:

a. \$5,000 per election to any candidate for federal office, for a maximum of \$10,000 per election cycle (including the primary and general elections), *see* 2 U.S.C. § 441a(a)(2)(A);

b. \$5,000 per year to any other political committee, including a total of \$5,000 to a state political party committee and its affiliated local political party committees, *see* 2 U.S.C. § 441a(a)(2)(C); and

c. \$15,000 per year to any national political party committee, *see* 2 U.S.C. § 441a(a)(2)(B).

13. The following table summarizes the contribution limits that apply to political committees that have more than 50 contributors and have contributed to five or more candidates:

<i>Recipient of Contribution:</i>	Political Committee Making Contribution Has Existed for <i>Less Than Six (6) Months</i>	Political Committee Making Contribution Has Existed for <i>Six (6) or More Months</i>
Candidate	\$2,600	\$5,000
State political party committee and local party committee affiliates	\$10,000	\$5,000
National political party committee	\$32,400	\$15,000

14. Even if a political committee has received contributions from more than 50 persons, and has contributed to five or more candidates for federal offices, it cannot be recognized as a “multicandidate political committee”—and become subject to the contribution limits that apply to multicandidate political committees—unless it has existed and been registered with the FEC for at least six months. 2 U.S.C. § 441a(a)(4).

15. Conversely, once a political committee has received contributions from more than 50 persons, contributed to five or more candidates for federal office, and existed and been registered with the FEC for at least six months, it must be designated a “multicandidate political committee” and cannot avoid being subject to the contribution limits that apply to such entities. *See* 11 C.F.R. § 110.2(a)(1).

16. Due to the discriminatory contribution limits that apply to political committees and “multicandidate political committees,” a political committee that has received more than 50 contributions and contributed to at least five candidates, but has been registered with the FEC for *less* than six months, may contribute only \$2,600 per election to each candidate (for a maximum of \$5,200 per election cycle). 2 U.S.C. § 441a(a)(1)(A). An identically situated political committee that has received more than 50 contributions and contributed to at least five candidates, but has existed and been registered with the FEC for *more* than six months, however, qualifies as a multicandidate political committee, *id.* § 441a(a)(4), and may contribute \$5,000 per election to each candidate (for a maximum of \$10,000 per election cycle), *id.* § 441a(a)(2)(A).

17. A political committee that has received more than 50 contributions and contributed to at least five candidates, but has been registered with the FEC for *less* than six months, may contribute a total of \$10,000 each year to a state political party committee and its affiliated local political party committees, as well as \$32,400 each year to a national political party committee. 2 U.S.C. § 441a(a)(1)(B), (D). An identically situated political committee that has received more than 50 contributions and contributed to at least five candidates, but has existed and been registered with the FEC for *more* than six months, however, is designated a multicandidate political committee, 2 U.S.C. § 441a(a)(4), and may contribute a total of only \$5,000 each year to a state

political party committee and its affiliated local political party committees, as well as \$15,000 each year to a national political party committee per year, 2 U.S.C. § 441a(a)(2)(B), (C).

**Federal Law Imposes Unconstitutional Discriminatory
Limits on STOP PAC's Ability to Associate With and
Demonstrate Its Support for the Candidates It Supports**

18. Plaintiff STOP PAC filed with the FEC the paperwork necessary to register as a political committee on February 24, 2014. STOP PAC has over 1,400 contributors and has made contributions to at least five candidates for federal office.

19. STOP PAC meets all of the statutory qualifications for being recognized as a “multicandidate political committee,” except it has existed and been registered with the FEC for less than six months. Because STOP PAC is unable to qualify as a “multicandidate political committee,” it may contribute only \$2,600 per election to each candidate, rather than \$5,000.

20. On or about April 4, 2014, STOP PAC contributed the statutory maximum of \$2,600 to Niger Innis. Innis was a candidate for the Republican nomination for Congress from Nevada’s fourth congressional district in Nevada’s June 10, 2014 primary election.

21. STOP PAC wished to contribute an additional \$2,400 to Innis in connection with the primary election, which would bring its total contribution to Innis in connection with the primary to \$5,000. From April 4, 2014 (the date of STOP PAC’s contribution to Innis) through the primary, STOP PAC consistently had sufficient funds in its account to make this contribution.

22. The FEC maintains that, due to the FECA’s six-month waiting period, STOP PAC will not qualify as a multicandidate political committee until September 11, 2014—after the primary election is over—and therefore could not contribute more than a total of \$2,600 to Innis in connection with the primary. If STOP PAC had existed and been registered with the FEC for

more than six months, however, it would have been able to contribute a total of \$5,000 to Innis in connection with the primary.

23. STOP PAC wished to contribute additional funds to Innis in the primary election as a way of further associating itself with him; expressing and demonstrating its strong approval of his political views and proposals concerning limited government, lower taxes, and personal freedom; subsidizing his political speech, with which it deeply agrees; and assisting his campaign.

24. On or about June 16, 2014, STOP PAC contributed the statutory maximum of \$2,600 to Dan Sullivan. Sullivan is a candidate for the Republican nomination for Senate from Alaska in Alaska's August 19, 2014 primary election.

25. STOP PAC wished to contribute an additional \$2,400 to Sullivan in connection with the primary election, which would bring its total contribution to Sullivan in connection with the primary to \$5,000. From June 16, 2014 (the date of STOP PAC's contribution to Sullivan) through the present, STOP PAC consistently has had sufficient funds in its account to make this additional \$2,400 contribution. It will retain such funds until the date of the primary.

26. The FEC maintains that, due to the FECA's six-month waiting period, STOP PAC will not qualify as a multicandidate political committee until September 11, 2014—after the primary election is over—and therefore may not contribute funds totaling more than \$2,600 to a candidate such as Sullivan in connection with that primary election. If STOP PAC had existed and been registered with the FEC for more than six months, however, it would have been able to contribute a total of \$5,000 to Sullivan in connection with the primary.

27. STOP PAC wishes to contribute additional funds to Sullivan in the primary election as a way of further associating itself with him; expressing and demonstrating its strong

approval of his political views and proposals concerning pro-growth tax reform and health care reform; subsidizing his political speech, with which it deeply agrees; and assisting his campaign.

28. On or about July 7, 2014, STOP PAC contributed \$2,600 to Congressman Joe Heck in connection with the 2014 general election. Congressman Heck is the Republican nominee for Congress from Nevada's 3rd congressional district.

29. STOP PAC previously contributed \$250 to Heck in connection with Nevada's 2014 primary election for the 3rd congressional district

30. STOP PAC wishes to immediately contribute an additional \$1,800 to Heck, for a total of \$4,400, but federal law prohibits it from contributing funds totaling more than \$2,600 to a candidate until its six-month waiting period expires on September 11, 2014. Between August 1, 2014 and September 11, 2014, STOP PAC will retain sufficient funds in its account (in addition to other funds alleged in this Amended Complaint) to make such a contribution.

31. The FEC maintains that, due to the FECA's six-month waiting period, STOP PAC will not qualify as a multicandidate political committee until September 11, 2014, and therefore may not contribute a total of more than \$2,600 to Heck in connection with the general election until that date. If STOP PAC had existed and been registered with the FEC for more than six months, however, it would have been able to immediately contribute a total of \$5,000 to Sullivan in connection with the general election.

32. STOP PAC wishes to contribute additional funds to Heck in the general election as a way of further associating itself with him; expressing and demonstrating its strong approval of his political views and proposals concerning health care and rollbacks of excessive federal regulations; subsidizing his political speech, with which it deeply agrees; and assisting his campaign.

33. STOP PAC believes that associating itself with a candidate as early as possible in a general election race, and to the greatest extent legally possible, can have the greatest impact on the race by helping to define a candidate early in the voters' minds, engendering further support from like-minded individuals and groups that can increase exponentially as time progresses, and assisting the candidate in propagating his views more broadly, potentially defining the issues that will determine the course of the race.

34. Because STOP PAC's contributors live throughout the country, making a contribution through STOP PAC is the most practical and realistic way in which they collectively can associate as STOP PAC supporters with the candidates the committee supports.

35. If STOP PAC contributes more than \$2,600 to a candidate in connection with a single election, it will face a credible threat of civil enforcement proceedings or criminal prosecution.

**Federal Law Imposes Unconstitutional Discriminatory
Limits on the Fund's Ability to Associate With and
Demonstrate Its Support for Political Party Committees**

36. Plaintiff Fund registered as a political committee with the FEC on May 9, 2012, and has over 100,000 contributors. It has made, and continues to make, contributions to dozens of federal candidates.

37. The Fund, which has been registered with the FEC for six or more months, is registered and treated as a "multicandidate political committee." It therefore may contribute a total of only \$5,000 per year to a state political party committee and its affiliated local political party committees, as well as \$15,000 per year to a national political party committee.

38. On April 4, 2014, the Fund contributed the statutory maximum of \$5,000 to the ARCC.

39. The Fund has more than \$37,400 in available funds. It wishes to immediately contribute an additional \$5,000 to the ARCC, which would bring its total contributions to the ARCC for the year 2014 to \$10,000. The Fund further wishes to immediately contribute \$32,400 to the National Republican Senatorial Committee (“NRSC”).

40. Due to the discriminatory limits on contributions from multicandidate political committees to political party committees, the Fund may not contribute as much to the ARCC and the NRSC as a political committee that is identical to it in all material respects, but has existed and been registered with the FEC for less than six months.

41. The Fund wishes to contribute additional funds to the ARCC and NRSC as a way of further associating itself with those entities; expressing and demonstrating its strong approval of their political platforms; subsidizing their political speech, with which it deeply agrees; and assisting the campaigns in which those entities are involved.

42. Because the Fund’s contributors live throughout the country, making a contribution through the Fund is the most practical and realistic way in which they can collectively associate the Fund with the ARCC and NRSC and further their efforts as a group.

CAUSES OF ACTION

COUNT I

Plaintiffs STOP PAC’s Fifth Amendment Equal Protection Challenge to 2 U.S.C. § 441a(a)(1)(A) As Applied to Certain New Political Committees

43. Plaintiff STOP PAC hereby re-alleges and incorporates by reference the allegations contained in Paragraphs 1-38.

44. Limits on contributions from political committees to candidates burden the fundamental First Amendment rights of freedom of association and speech of such committees and their members.

45. The FEC is subject to the Due Process Clause of the Fifth Amendment, which contains equal protection restrictions identical to those that the Fourteenth Amendment's Equal Protection Clause imposes on states. *See Bolling v. Sharpe*, 347 U.S. 497 (1954).

46. Under federal law, materially identical groups that have received contributions from more than 50 people and contributed to at least 5 federal candidates are unconstitutionally treated differently, depending on whether or not they have been registered with the FEC for at least 6 months.

47. A group that has received contributions from more than 50 people and contributed to at least 5 federal candidates, but has not been registered with the FEC for at least 6 months, is considered to be only a "political committee," is treated as a "person" for purposes of contribution limits, and may contribute no more than \$2,600 per election to each candidate. 2 U.S.C. § 441a(a)(1)(A).

48. A materially identical group that has received contributions from more than 50 people, contributed to at least 5 federal candidates, and has existed and been registered with the FEC for at least 6 months is considered to be a "multicandidate political committee" and may contribute up to \$5,000 per election to each candidate. 2 U.S.C. § 441a(a)(2)(A).

49. The differing limits on materially identical committees' contributions to candidates, depending on whether the committee has existed and been registered with the FEC for more than 6 months, is not closely tailored to furthering an important government interest, and fails any level of heightened constitutional scrutiny. Imposing the lower \$2,600 restriction on all new political committees is an impermissibly overbroad means of furthering any interest the Government may assert.

50. Section 441a(a)(1)(A)'s contribution limit of \$2,600 to each candidate per election is unconstitutional under the equal protection component of the Fifth Amendment's Due Process Clause, as applied to political committees that have received contributions from more than 50 people and contributed to at least 5 federal candidates, but have not existed and been registered with the FEC for at least 6 months.

COUNT II

Plaintiff STOP PAC's First Amendment Challenge to 2 U.S.C. § 441a(a)(4)'s Six-Month Waiting Period As Applied to Certain New Political Committees

51. Plaintiff STOP PAC hereby re-alleges and incorporates by reference the allegations contained in Paragraphs 1-46.

52. Political committees that have received contributions from more than 50 people and made contributions to at least 5 federal candidates, but that have existed and been registered with the FEC for less than six months, may contribute only \$2,600 per election to each candidate. 2 U.S.C. § 441a(a)(1)(A).

53. 2 U.S.C. § 441a(a)(4) imposes a six-month waiting period on such committees before they may qualify as "multicandidate political committees," and be permitted to contribute \$5,000 per election to each candidate under 2 U.S.C. § 441a(a)(2)(A).

54. This six-month waiting period is a substantial delay that interferes with new political committees' attempts to associate with and demonstrate their support for candidates in a timely manner. Such delay constitutes a substantial burden on First Amendment rights.

55. 2 U.S.C. § 441a(a)(4)'s six-month waiting period for being designated a "multicandidate political committee" and being permitted to contribute \$5,000 rather than \$2,600 per election to each candidate is comparable to a prior restraint and substantially burdens First Amendment rights of freedom of association and expression. 2 U.S.C. § 441a(a)(4) therefore is

unconstitutional as applied to political committees that have received contributions from more than 50 people and contributed to at least 5 federal candidates, but have not existed and been registered with the FEC for at least 6 months.

COUNT III
ARCC's and the Fund's Fifth Amendment Equal
Protection Challenge to 2 U.S.C. § 441a(a)(2)(B), (C)

56. Plaintiffs ARCC and the Fund hereby re-allege and incorporate by reference the allegations contained in Paragraphs 1-51.

57. Limits on contributions from multicandidate political committees to candidates burden the fundamental First Amendment rights of freedom of association and expression of such committees and their members.

58. The FEC is subject to the Due Process Clause of the Fifth Amendment, which contains equal protection restrictions identical to those that the Fourteenth Amendment's Equal Protection Clause imposes on states. *See Bolling v. Sharpe*, 347 U.S. 497 (1954).

59. Under federal law, materially identical groups that have received contributions from more than 50 people and contributed to at least 5 federal candidates are unconstitutionally treated differently, depending on whether they have been registered with the FEC for at least 6 months.

60. A group that has received contributions from more than 50 people and contributed to at least 5 federal candidates, but has not been registered with the FEC for at least 6 months, is considered to be only a "political committee," is treated as a "person" for purposes of contribution limits, and may contribute up to a total of \$10,000 annually to a state political party committee and its affiliated local political party committees, as well as \$32,400 annually to a national political party committee. 2 U.S.C. § 441a(a)(1)(B), (D).

61. A materially identical group that has received contributions from more than 50 people, contributed to at least 5 federal candidates, and has been registered with the FEC for at least 6 months is considered to be a “multicandidate political committee” and may contribute a total of only \$5,000 annually to a state political party committee and its affiliated local political party committees, as well as \$15,000 annually to a national political party committee. 2 U.S.C. § 441a(a)(2)(B), (C).

62. The different limits on committees’ contributions to candidates, depending on whether the committee has existed and been registered with the FEC for more than 6 months, is not closely tailored to furthering an important government interest, and fails any form of heightened scrutiny.

63. Section 441a(a)(2)(B), (C)’s annual contribution limits of \$5,000 to state political party committees and their affiliated local political party committees, and \$15,000 to national political party committees, is unconstitutional under the equal protection component of the Fifth Amendment’s Due Process Clause.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

1. A declaratory judgment pursuant to 28 U.S.C. § 2201 that:
 - a. 2 U.S.C. § 441a(a)(1)(A)’s \$2,600 limit on contributions to candidates violates the equal protection component of the Fifth Amendment as applied to STOP PAC and similarly situated groups;
 - b. 2 U.S.C. § 441a(a)(4)’s six-month waiting period on being designated a “multicandidate political committee” and the resulting restrictions on speech and

association violate the First Amendment as applied to STOP PAC and similarly situated groups; and

c. 2 U.S.C. § 441a(a)(2)(C)'s \$5,000 limit on contributions from multicandidate political committees to state political party committees and affiliated local political party committees, as well as 2 U.S.C. § 441a(a)(2)(B)'s \$15,000 limit on contributions from multicandidate political committees to national political party committees, violate the equal protection component of the Fifth Amendment;

2. An injunction:

a. prohibiting the FEC from enforcing 2 U.S.C. § 441a(a)(1)(A)'s \$2,600 limit on contributions from political committees to candidates against political committees such as STOP PAC that have received contributions from more than 50 people and made contributions to at least 5 federal candidates (and requiring the FEC to instead apply 2 U.S.C. § 441a(a)(2)(A)'s \$5,000 limit to such entities);

b. prohibiting the FEC from enforcing 2 U.S.C. § 441a(a)(2)(C)'s \$5,000 limit on contributions from multicandidate political committees such as the Fund to state political party committees and their affiliated local political party committees such as the ARCC (and requiring the FEC to instead apply 2 U.S.C. § 441(a)(1)(D)'s \$10,000 limit to such contributions); and

c. prohibiting the FEC from enforcing 2 U.S.C. § 441a(a)(2)(B)'s \$15,000 limit on contributions from multicandidate political committees such as the Fund to national political party committees (and requiring the FEC to instead apply 2 U.S.C. § 441(a)(1)(B)'s \$32,400 limit to such contributions);

3. Costs and attorneys' fees pursuant to any applicable statute or authority, including but not limited to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

4. Such other relief as this Court deems just and appropriate.

Dated this 7th day of July 2014.

Respectfully submitted,

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