

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
REV. DAVID LEWICKI,)	
)	
VLADIMIR SHKLOVSKY)	
)	
Plaintiffs,)	Civ. No. 24-2505 (ABJ)
)	
v.)	ANSWER
)	
FEDERAL ELECTION COMMISSION,)	
)	
)	
Defendant.)	
_____)	

DEFENDANT FEDERAL ELECTION COMMISSION’S ANSWER

Defendant Federal Election Commission (“FEC” or “Commission”) submits this Answer to the Complaint for Injunctive and Declaratory Relief (the “Complaint”) filed by plaintiffs Reverend David Lewicki and Vladimir Shklovsky. (*See* ECF No. 1.) Any allegation not specifically responded to below is DENIED.

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF¹

1. This paragraph contains descriptions and characterizations of the allegations in plaintiffs’ Complaint and the Federal Election Campaign Act of 1971, 52 U.S.C. §§ 30101-46 (“FECA” or the “Act”), which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that plaintiffs’ Complaint purports to assert a claim under FECA. DENY that the Commission has violated FECA.

2. This paragraph contains descriptions and characterizations of plaintiffs’ amended administrative complaint (the “Administrative Complaint”), as well as plaintiffs’ legal arguments

¹ The FEC has included the headings from the Complaint for the sole purpose of assisting in the reading of this Answer and does not admit the accuracy of those headings.

and conclusions, which speak for themselves, and so no response is required. DENY to the extent that the paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

3. This paragraph contains references to, and characterizations of, the Administrative Complaint, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. DENY to the extent that the paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

4. This paragraph contains descriptions of, and references to, the Administrative Complaint, which speaks for itself, and so no response is required. To the extent that a response is required, ADMIT that plaintiffs' Administrative Complaint contains the referenced diagram.

5. This paragraph contains plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, DENY.

6. This paragraph contains plaintiffs' references to, and characterizations of, the Administrative Complaint and the First General Counsel's Report ("FGCR") of the Office of General Counsel at the FEC ("OGC") in the underlying administrative proceeding, which are publicly available on the FEC website. These documents speak for themselves, and so no response is required. To the extent a response is required, ADMIT that:

- Plaintiffs filed the Amended Complaint on November 14, 2023;
- The FEC assigned the Administrative Complaint to Matter Under Review ("MUR") 8110;
- OGC included in its First General Counsel's Report ("FGCR") recommendations that the Commission find "reason to believe" that: (1) "Unknown Respondent(s) violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b) by making a contribution in the name of another person"; (2) "Policies, Solutions and Action for America violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b) by knowingly permitting its name to be used to effect a contribution in the name of another person"; (3) "RightOn Issues, Inc. violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b) by knowingly permitting its name to be used to effect a contribution in the name of another person"; and

- OGC included in its FGCR recommendations that the Commission “take no action at [that] time as to the allegation[s]” that (1) “American Coalition for Conservative Policies, Policies, Solutions and Action for America, and RightOn Issues, Inc. violated 52 U.S.C. §§ 30103, 30104 and 11 C.F.R. §§ 102.1(d) and 104.1 by failing to register and report as political committees” and (2) “John Fogarty, Jr., Christopher Marston, Moses Ayala, and Caleb Crosby, in their personal capacities, violated 52 U.S.C. §§ 30103, 30104 and 11 C.F.R. §§ 102.1(d), 104.1, 104.2, 104.3, and 104.8 by causing American Coalition for Conservative Policies, Policies, Solutions and Action for America, RightOn Issues to fail to register and report as political committees.”

7. This paragraph contains plaintiffs’ references to, and characterizations of, the votes taken by Commissioners in considering MUR 8110, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that Commissioners voted 3-3 as to whether there was reason to believe that a violation of FECA occurred in the underlying administrative proceeding; and that Commissioners voted 6-0 to close the file in MUR 8110 on July 3, 2024.

8. This paragraph contains references to, characterizations of, and quotations from the Statement of Reasons of Chairman Sean J. Cooksey and Commissioners Allen J. Dickerson and James E. “Trey” Trainor, III (the “Controlling Statement of Reasons”), as well as plaintiffs’ legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the Controlling Statement of Reasons, which is publicly available on the FEC website, was issued on July 29, 2024, and that the Controlling Statement of Reasons contains the quoted text, except that the full quotation states: “In urging us to find RTB, however, the Office of General Counsel (“OGC”) did not apply that standard of review. Rather, OGC posited that reason-to-believe is a ‘very low evidentiary bar’ which may be cleared by mere speculation.” (footnote omitted).

9. This paragraph contains plaintiffs’ characterizations of the Controlling Statement of Reasons, as well as plaintiffs’ legal arguments and conclusions, which speak for themselves,

and so no response is required. DENY to the extent that the paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

JURISDICTION AND VENUE

10. ADMIT that 52 U.S.C. § 30109(a)(8)(A), 5 U.S.C. § 702, and 28 U.S.C. § 1331, 2201(a), and 2202 provide authority for jurisdiction and ADMIT that 52 U.S.C. § AAQ30109(a)(8)(A) and 28 U.S.C. § 1391(e) provides for venue in this district.

PARTIES

11. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph.

12. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph that plaintiff Reverend David Lewicki ("Lewicki") is a citizen and registered voter. This paragraph further contains plaintiffs' references to, characterizations of, and quotations from provisions of FECA and judicial opinions, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *Akins*, 524 U.S. at 11, 20 contains the quoted text. DENY the remainder of the allegations in this paragraph.

13. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph.

14. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph.

15. This paragraph contains plaintiffs' references to, characterizations of, and quotations from a judicial opinion, as well as plaintiffs' legal arguments and conclusions, which

speak for themselves, and so no response is required. To extent a response is required, DENY that Lewicki has been harmed. ADMIT that *Akins*, 524 U.S. at 21 contains the quoted text.

16. This paragraph contains plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, DENY.

17. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph regarding plaintiff Vladimir Shklovsky ("Shklovsky").

18. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph that Shklovsky is a citizen and registered voter. This paragraph further contains plaintiffs' references to, characterizations of, and quotations from provisions of FECA and judicial opinions, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *Akins*, 524 U.S. at 20 contains the quoted text. DENY the remainder of the allegations in this paragraph.

19. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph.

20. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph.

21. This paragraph contains plaintiffs' legal arguments and conclusions, as well as references to, characterizations of, and quotations from a judicial opinion, all of which speak for themselves, and so no response is required. To the extent a response is required, DENY that Shklovsky has been harmed. ADMIT that *Akins*, 524 U.S. at 21 contains the quoted text.

22. This paragraph contains plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, DENY.

23. ADMIT.

STATUTORY AND REGULATORY FRAMEWORK

Conduit Contributions

24. This paragraph contains plaintiffs' references to, characterizations of, and quotations from a judicial opinion, as well as provisions of FECA, and FEC regulations, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *United States v. Hsia*, 30 F. App'x 1, 1-2 (D.C. Cir. 2001) and FECA contain the quoted text.

25. This paragraph contains plaintiffs' references to, characterizations of, and quotations from FEC regulations and a judicial opinion, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that FEC regulations and *United States v. O'Donnell*, 608 F.3d 546, 549 (9th Cir. 2010), contain the quoted text.

Registration and Reporting Requirement for Political Committees

26. This paragraph contains plaintiffs' references to, and characterizations of, provisions of FECA and FEC regulations, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that 52 U.S.C. § 30104(b)(2)-(8), in part, requires committee reports to disclose the items described in this paragraph.

27. This paragraph contains plaintiffs' references to, characterizations of, and quotations from provisions FECA, FEC regulations, and judicial opinions, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that FECA and *Buckley*, 424 U.S. at 79, contain the quoted text and ADMIT to the extent that *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S.

238, 262 (1986) contains the quoted text. DENY the remainder of the allegations in this paragraph.

28. This paragraph contains plaintiffs' legal arguments and conclusions which speak for themselves, and so no response is required. DENY to the extent that this paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

29. This paragraph contains plaintiffs' legal arguments and conclusions, as well as references to, and characterizations of, provisions of FECA and FEC regulations, which speak for themselves, and so no response is required. DENY to the extent that the paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

30. This paragraph contains plaintiffs' references to, characterizations of, and quotations from FECA, a Statement of Reasons, the FEC's website, and an advisory opinion, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the Statement of Reasons, the FEC's website, and the advisory opinion contain the quoted text. DENY to the extent that the paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

Preliminary Adjudication of Private Complaints Through the FEC

31. This paragraph contains plaintiffs' references to, characterizations of, and quotations from FECA and judicial opinions, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *CREW v. FEC*, 923 F.3d 1141, 1149 (D.C. Cir. 2019) (Pillard, J., dissenting), contains the quoted text.

32. This paragraph contains plaintiffs' references to, characterizations of, and quotations from FECA, FEC regulations, and the Federal Register, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that FECA and the Federal Register contain the quoted text.

33. This paragraph contains plaintiffs' references to, characterizations of, and quotations from provisions of FECA, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, so no response is required. To the extent a response is required, ADMIT that FECA contains the quoted text.

34. This paragraph contains plaintiffs' references to, characterizations of, and quotations from provisions of FECA, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, so no response is required. To the extent a response is required, ADMIT that FECA contains the quoted text.

35. This paragraph contains plaintiffs' references to, characterizations of, and quotations from provisions of FECA and judicial opinions, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, so no response is required. To the extent a response is required, ADMIT that *End Citizens United PAC v. FEC*, 69 F.4th 916, 920 (D.C. Cir. 2023) contains the quoted text, except that the full quotation states: "at the time when a deadlock vote results in an order of dismissal."

36. This paragraph contains plaintiffs' references to, characterizations of, and quotations from provisions of FECA and a judicial opinion, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, so no response is required. To the extent a response is required, ADMIT that *Orloski v. FEC*, 795 F.2d 156, 161 (D.C. Cir. 1986) and FECA

contain the quoted text. ADMIT the second sentence of this paragraph to the extent that 52 U.S.C. § 30109(a)(8)(C) states: “the court may declare that the dismissal of the complaint or the failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days, failing which the complainant may bring, in the name of such complainant, a civil action to remedy the violation involved in the original complaint.” DENY the remainder of the allegations in this paragraph.

FACTUAL BACKGROUND

37. This paragraph contains summaries of, references to, and characterizations of, plaintiffs’ Administrative Complaint, as well as plaintiffs’ legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that plaintiffs filed an initial administrative complaint on February 3, 2023 and that plaintiffs filed the Administrative Complaint on November 14, 2023. DENY to the extent that this paragraph’s legal arguments and characterizations imply that the FEC acted contrary to law.

38. This paragraph contains plaintiffs’ characterizations of the Administrative Complaint as well as plaintiffs’ legal arguments and conclusions, which speak for themselves, and so no response is required. DENY to the extent that this paragraph’s legal arguments and characterizations imply that the FEC acted contrary to law.

39. This paragraph contains plaintiffs’ characterizations of the Administrative Complaint as well as plaintiffs’ legal arguments and conclusions, which speak for themselves, and so no response is required. DENY to the extent that this paragraph’s legal arguments and characterizations imply that the FEC acted contrary to law.

40. This paragraph contains plaintiffs’ characterizations of the Administrative Complaint as well as plaintiffs’ legal arguments and conclusions, which speak for themselves,

and so no response is required. DENY to the extent that this paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

41. This paragraph contains plaintiffs' characterizations of the Administrative Complaint as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. DENY to the extent that this paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

42. This paragraph contains plaintiffs' characterizations of the Administrative Complaint as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. DENY to the extent that this paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

43. This paragraph contains plaintiffs' characterizations of the Administrative Complaint as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. DENY to the extent that this paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

44. This paragraph contains plaintiffs' references to, characterizations of, and quotations from the FGCR, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the FGCR contains the quoted text and that OGC included in its FGCR:

- Recommendations that the Commission find "reason to believe" that: (1) "Unknown Respondent(s) violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b) by making a contribution in the name of another person"; (2) "Policies, Solutions and Action for America violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b) by knowingly permitting its name to be used to effect a contribution in the name of another person"; (3) "RightOn Issues, Inc. violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b) by knowingly permitting its name to be used to effect a contribution in the name of another person"; and

- Recommendations that the Commission “take no action at [that] time as to the allegation[s]” that (1) “American Coalition for Conservative Policies, Policies, Solutions and Action for America, and RightOn Issues, Inc. violated 52 U.S.C. §§ 30103, 30104 and 11 C.F.R. §§ 102.1(d) and 104.1 by failing to register and report as political committees,” and (2) “John Fogarty, Jr., Christopher Marston, Moses Ayala, and Caleb Crosby, in their personal capacities, violated 52 U.S.C. §§ 30103, 30104 and 11 C.F.R. §§ 102.1(d), 104.1, 104.2, 104.3, and 104.8 by causing American Coalition for Conservative Policies, Policies, Solutions and Action for America, RightOn Issues to fail to register and report as political committees.”

45. This paragraph contains plaintiffs’ references to, characterizations of, and quotations from the FGCR and Commissioners’ vote certifications, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that on June 25, 2024, Commissioners voted 3-3 as to whether there was reason to believe that a violation of FECA occurred in the underlying administrative proceeding; that Commissioners voted to close the file in MUR 8110 on July 3, 2024; and that the July 3, 2024 vote certification contains the quoted text.

46. This paragraph contains plaintiffs’ references to, characterizations of, and quotations from the Controlling Statement of Reasons, as well as plaintiffs’ legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the Controlling Statement of Reasons was issued on July 29, 2024, and that the quoted text appears in the Controlling Statement of Reasons. DENY that the Commission acted contrary to law.

47. This paragraph contains plaintiffs’ references to, characterizations of, and quotations from the Controlling Statement of Reasons, as well as plaintiffs’ legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the quoted text appears in the Controlling Statement of Reasons. DENY that the Commission acted contrary to law.

48. This paragraph contains plaintiffs' references to, characterizations of, and quotations from the Controlling Statement of Reasons and a judicial opinion, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the Controlling Statement of Reasons and *United States v. Whittemore*, 776 F.3d 1074, 1079 (9th Cir. 2015) contain the quoted text. DENY that the Commission acted contrary to law.

49. This paragraph contains plaintiffs' references to, characterizations of, and quotations from the Controlling Statement of Reasons, a Factual and Legal Analysis issued by the FEC, and the FGCR, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the Controlling Statement of Reasons and the Factual and Legal Analysis contain the quoted text. DENY that the Commission acted contrary to law.

50. This paragraph contains plaintiffs' references to, characterizations of, and quotations from the Controlling Statement of Reasons, the FGCR, and the Administrative Complaint, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. DENY to the extent that the paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

51. This paragraph contains plaintiffs' references to, and characterizations of, the Controlling Statement of Reasons, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. DENY to the extent that the paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

PLAINTIFFS' FIRST CLAIM FOR RELIEF

The FEC's Untimely Explanation Renders the Dismissal of Plaintiffs' Complaint Arbitrary, Capricious, an Abuse of Discretion, and Contrary to Law

This heading contains plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, DENY that the Commission acted contrary to law.

52. This paragraph repeats paragraphs 1-51 of the Complaint. The Commission repeats and realleges its responses to paragraphs 1-51 as if set forth fully herein.

53. This paragraph contains plaintiffs' references to, and characterizations of, provisions of FECA, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that plaintiffs' Complaint was filed within 60 days of the dismissal of MUR 8110.

54. This paragraph contains plaintiffs' references to, and characterizations of, provisions of FECA, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, DENY.

55. This paragraph contains plaintiffs' references to, characterizations of, and quotations from judicial opinions, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *James Madison Ltd. v. Ludwig*, 82 F.3d 1085, 1095 (D.C. Cir. 1996) and *End Citizens United PAC v. FEC*, 69 F.4th at 920 contain the quoted text, and that the Commission's actions on plaintiffs' Administrative Complaint under 52 U.S.C. § 30109(a) preceded this lawsuit.

56. This paragraph contains plaintiffs' legal arguments and conclusions, including plaintiffs' characterizations of a judicial opinion and a publicly available law journal article,

which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *End Citizens United PAC*, 69 F.4th at 921–22 and the journal article contain the quoted text. DENY the remainder of the paragraph.

57. This paragraph contains plaintiffs’ legal arguments and conclusions, including plaintiffs’ references to, characterizations of, and quotations from a judicial opinion, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *Ohio v. Environmental Protection Agency*, 144 S. Ct. 2040, 2053 (2024), *Tourus Records, Inc. v. Drug Enforcement Administration*, 259 F.3d 731, 737 (D.C. Cir. 2001), and *Orloski*, 795 F.2d at 161, contain the quoted text. DENY the remainder of the paragraph.

PLAINTIFFS’ SECOND CLAIM FOR RELIEF

The Commission’s Reliance on an Impermissible Interpretation of the Reason-to-Believe Threshold Renders the Dismissal of Plaintiffs’ Complaint Arbitrary, Capricious, an Abuse of Discretion, and Contrary to Law

This heading contains plaintiffs’ legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, DENY that the Commission acted contrary to law.

58. This paragraph repeats paragraphs 1-57 of the Complaint. The Commission repeats and realleges its responses to paragraphs 1-57 as if set forth fully herein.

59. This paragraph contains plaintiffs’ references to, characterizations of, and quotations from the Controlling Statement of Reasons, as well as legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the Controlling Statement contains the quoted text, except that the full quotation states:

“This is not a loose standard, and ‘[w]e are forbidden’ from merely providing a ‘rubber stamp’ to a complaint’s allegations, or ‘proceed[ing] on an ‘RTB-of-the-gaps’ approach to law enforcement.’ In urging us to find RTB, however, the Office of General Counsel

(“OGC”) did not apply that standard of review. Rather, OGC posited that reason-to-believe is a ‘very low evidentiary bar’ which may be cleared by mere speculation.” (footnote omitted).

DENY the remainder of the paragraph.

60. This paragraph contains plaintiffs’ characterizations of the Controlling Statement of Reasons, as well as plaintiffs’ legal arguments and conclusions, which speak for themselves, and so no response is required. DENY to the extent that this paragraph’s legal arguments and characterizations imply that the FEC acted contrary to law.

61. This paragraph contains plaintiffs’ characterizations of, and quotations from, the Controlling Statement of Reasons and judicial opinions, as well as plaintiffs’ legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *Campaign Legal Center v. FEC*, 106 F.4th 1175, 1194 (D.C. Cir. 2024), *Campaign Legal Center v. FEC*, 646 F. Supp. 3d 57, 67 (D.D.C. 2022), and *Common Cause Georgia v. FEC*, No. 22-cv-3067-DLF, 2023 WL 6388883, at *6 n.8 (D.D.C. Sept. 29, 2023) contain the quoted text. DENY the remainder of the paragraph.

62. This paragraph contains plaintiffs’ characterizations of the Controlling Statement of Reasons and a judicial opinion, as well as plaintiffs’ legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *Orloski*, 795 F.2d at 161, contains the quoted text. DENY the remainder of the paragraph.

PLAINTIFFS' THIRD CLAIM FOR RELIEF

The Commission's Reliance on an Impermissible Interpretation of the Bar on Conduit Contributions Renders the Dismissal of Plaintiffs' Complaint Arbitrary, Capricious, an Abuse of Discretion, and Contrary to Law

This heading contains plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, DENY that the Commission acted contrary to law.

63. This paragraph repeats paragraphs 1-62 of the Complaint. The Commission repeats and realleges its responses to paragraphs 1-62 as if set forth fully herein.

64. This paragraph contains plaintiffs' characterizations of the Controlling Statement of Reasons, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the Controlling Statement of Reasons contains the quoted text and DENY the remainder of the paragraph.

65. This paragraph contains plaintiffs' characterizations of, and quotations from, the Controlling Statement of Reasons, judicial opinions, a Factual and Legal Analysis, and FEC regulations, as well as plaintiffs' legal arguments and conclusions, and so no response is required. To the extent a response is required, ADMIT that FEC regulations contain the quoted text. DENY to the extent that this paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

66. This paragraph contains plaintiffs' characterizations of the Controlling Statement of Reasons and a judicial opinion, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required,

ADMIT that *Orloski*, 795 F.2d at 161, contains the quoted text. DENY to the extent that this paragraph's legal arguments and characterizations imply that the FEC acted contrary to law.

PLAINTIFFS' FOURTH CLAIM FOR RELIEF

The Commission's Analysis Ignored Important Evidence and Failed to Articulate a Satisfactory Explanation, Rendering the Dismissal of Plaintiffs' Complaint Arbitrary, Capricious, an Abuse of Discretion, and Contrary to Law

This heading contains plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, DENY that the Commission acted contrary to law.

67. This paragraph repeats paragraphs 1-66 of the Complaint. The Commission repeats and realleges its responses to paragraphs 1-66 as if set forth fully herein.

68. This paragraph contains plaintiffs' references to, characterizations of, and quotations from the Controlling Statement of Reasons and a judicial opinion, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *Ohio*, 144 S. Ct. at 2053, contains the quoted text. DENY the remainder of the paragraph.

69. This paragraph contains plaintiffs' references to, characterizations of, and quotations from the Controlling Statement of Reasons, judicial opinions, and the FGCR, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *Campaign Legal Center*, 106 F.4th at 1193, contains the quoted text. DENY the remainder of the paragraph.

70. This paragraph contains plaintiffs' references to, characterizations of, and quotations from the Controlling Statement of Reasons, a judicial opinion, and the FGCR, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is

required. To the extent a response is required, ADMIT that *Ohio*, 144 S. Ct. at 2053, contains the quoted text. DENY the remainder of the paragraph.

71. This paragraph contains plaintiffs' references to, characterizations of, and quotations from the Controlling Statement of Reasons and a judicial opinion, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *Ohio*, 144 S. Ct. at 2053, contains the quoted text. DENY the remainder of the paragraph.

72. This paragraph contains plaintiffs' references to, characterizations of, and quotations from the Controlling Statement of Reasons and judicial opinions, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that *Ohio*, 144 S. Ct. at 2053, and *Campaign Legal Center*, 106 F.4th at 1193, contain the quoted text. DENY the remainder of the paragraph.

REQUESTED RELIEF

The Requested Relief section of the Complaint contains plaintiffs' characterizations of the Controlling Statement of Reasons, as well as plaintiffs' legal arguments and conclusions, which speak for themselves, and so no response is required. To the extent a response is required, DENY that the FEC's actions in MUR 8110 were "arbitrary, capricious, an abuse of discretion, and contrary to law;" DENY that the Court should "order the FEC to conform" to a declaration that the FEC's actions in MUR 8110 were "arbitrary, capricious, an abuse of discretion, and contrary to law;" DENY that plaintiffs should be awarded costs, expenses, and reasonable attorneys' fees in this action; DENY that plaintiffs are entitled to the relief requested or any other relief; and DENY the remainder of the allegations.

Respectfully submitted,

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