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OFFICE OF GENERAL COUNSEL

BEFORE THE  
FEDERAL ELECTION COMMISSION  
COMPLAINT

**MUR 7998**

John Berman  
PO Box 831  
Richland, WA 99352

Complainant,

V.

Fox News Network, LLC  
1211 Avenue of the Americas, 15<sup>th</sup> Floor  
FL 44  
New York, NY 10036

JD VANCE FOR SENATE INC. (FEC C00783142)  
PO BOX 6564, CINCINNATI, OH 45206

Protect Ohio Values (FEC C00770495)  
PO BOX 25573, ALEXANDRIA, VA 22313

Ohioans for JD (FEC C00783175)  
PO BOX 6564, CINCINNATI, OH 45206  
r •

Respondents.

## I. PARTIES AND FACTS – GENERAL BACKGROUND

John Berman (FEC Ohio, S2OH00394, candidacy withdrawn) files this complaint under 52 U.S.C. §§ 30101(9)(B)(i), 30118(a), and 30109(a)(1); and is based on information providing reason to believe: that Fox News Network, LLC (“Fox”) and JD VANCE FOR SENATE INC. (FEC C00783142 “Vance”) and Protect Ohio Values (FEC C00770495) and Ohioans for JD (FEC C00783175), and possibly other committees or PACs of which Berman is unaware violated “in-kind” contribution laws. Berman sets forth, here, evidence that Vance -- and possibly the other committees/PACs supporting his candidacy -- has controlled the distribution of at least one of Fox’s news stories. This control negated and has negated the “media/press exemption” that is accorded to those media and press who are independent of a candidate. The instance of control, supported by evidence set forth below, was a significant instance. But even if the instance were somehow considered “insignificant,” the statute sets forth no limitation on the size or scope of “control” of a media entity by a candidate. One instance of control – certainly over a news story containing an apparent 63% discrepancy (overstatement of total donation amounts) with the FEC donation disclosure – would cause a reasonable person to conclude that Vance had substantial control over Fox.

Such control could, by a reasonable reading of the statute, negate the exemption totally and render all media time – such as the abundance of air time on the Tucker Carlson Tonight show (whose host was also listed as the second endorser of Vance, as of July 3, 2021 [https://en.wikipedia.org/w/index.php?title=2022\\_United\\_States\\_Senate\\_election\\_in\\_Ohio&diff=1031677729&oldid=1031677533](https://en.wikipedia.org/w/index.php?title=2022_United_States_Senate_election_in_Ohio&diff=1031677729&oldid=1031677533) ; two days after Vance’s candidacy announcement) and other Fox shows – in substantial excess of that given to other candidates (most notably the other top contenders, not including Berman, obviously, but that is irrelevant to the analysis of media exemption), in violation of the “in-kind” contribution prohibitions. There may be authority of which Berman is unaware that limits the in-kind calculation only to those demonstrated instances of control. There may be other instances of control of Fox by Vance. In any event, Berman sets forth evidence concerning the following events, alleged to demonstrate substantial control of Fox by Vance.

## II. PARTIES AND FACTS – GENERAL BACKGROUND

John Berman (S2OH00394) was a candidate for the Republican nomination for US Senator, Ohio. He withdrew from the race before the state filing deadline.

Immediately after he saw the video of George Floyd dying, Berman began his “Midwest strategy” “SOLUTIONS” campaign – that has been, and is currently, punctuated with Congressional candidacies. At that moment, Berman realized a principal reason why his life had been spared, given the astronomical odds against his surviving his plane crash and then the “brutal cold and wind” afterwards, as described by the rescuers, who located him after three hours, and whom he returned to thank the following year. Left an “incomplete quadriplegic” by “double-crush” spinal and other orthopedic injuries from the crash, Berman can nevertheless walk in his fashion and type on a keyboard with some difficulty.

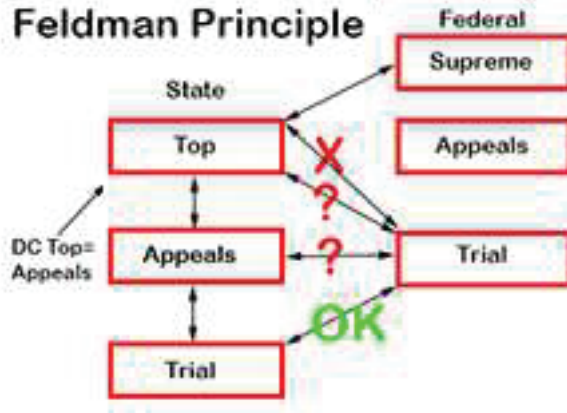
Berman had previously identified court stupidity, ignorance, and corruption as the root

cause of out-of-control police, as well as every major domestic problem facing the US. At the time Berman first saw the Floyd video, he was writing objections to a Minneapolis federal magistrate's standard-baloney "Rooker-Feldman doctrine" and handing the magistrate his head. Years before, Berman had identified the Feldman decision as a kludge that, beginning with the sloppy language on page 464, absurdly expanded the factual scope of the case from final judgments of a state's (or DC's) *highest* court, to judgments of all courts in a state; and the Feldman cancer later metastasized further to all "decisions." ("These provisions make the judgments of the District of Columbia Court of Appeals, **like the judgments of state [HIGH] courts**, directly reviewable in this Court." District of Columbia Court of Appeals v. Feldman, 460 US 462, 464 (1983), adding the missing HIGH to properly confine the case to the facts and to the scope of 28 USC §1257.) Further sloppy language in Feldman and in subsequent cases, with little or no actual analysis, led to forty years that have crippled our Bill of Rights. Simply put, Feldman (and Rooker) ignored the Civil War and the Fourteenth Amendment, so naturally they came up with an absurd result.

Berman has pointed out that 22 years later, the Supreme-Court incompetents had to come back to *try* to correct their awful decision but would not admit that they blew a simple language construct that an 8<sup>th</sup> grader would catch, owing to the lawyer mob's focus on inflated mumbo-jumbo rather than on clarity; instead, they blamed others: "The Court of Appeals for the Third Circuit **misperceived** the narrow ground occupied by *Rooker-Feldman*" (Exxon Mobil Corp. v. Saudi Basic Industries Corp., 544 US 280, 284 (2005)). No, it was the incompetence reflected in the Feldman slop-wording that was the actual problem.

Even so, Exxon misstated the principle yet again: "*Rooker-Feldman* bars a losing party in [THE] state [HIGHEST] court "from seeking what in substance would be appellate review of the state [HIGHEST-COURT's] judgment – with CAP corrections added, properly confining it to its actual *narrow* scope. The **Supreme Court has no jurisdiction to review a state trial-court judgment**, and no reasonable person would say it does. (However, Feldman's omission of HIGHEST does make the sentence, absurdly, cover all state courts.) If the Supreme Court had meant that it was indirectly reviewing a state trial-court judgment by way of the state's review-court system, then the "geniuses" and masters of language and logic could have easily said so. But Feldman (at 476) also stated: "The [DC] Circuit properly acknowledged that the [DC **federal trial** court] **is without authority to review final determinations of the [highest non-federal court in DC]**. Review of such determinations can be obtained **only in this [Supreme] Court**." That is a proper statement of the Feldman principle: the Supreme Court has jurisdiction to review a judgment from the highest court in a state (**not from a state trial court**); and a federal trial court does not have this jurisdiction (it actually does, probably, because 1257 uses the permissive "may," but it's not worth arguing about). A diagram, which is what an 8<sup>th</sup> grade algebra class could draw, illustrates this:

## “ACCURATE” (but probably flawed) Feldman Principle



The important result of the “accurate” Feldman principle is that a federal trial court definitely has (green OK) authority to review-and-correct (double-ended arrows) a state trial court (and it can also have a state judge arrested and jailed (1880 Virginia, see below). The “accurate” Feldman principle is probably wrong because 1257 uses the permissive, “may,” but that need not be addressed at this time because the major Feldman error – blocking the OK -- must be fixed first.)

So, seventeen-more years of the same destruction ensued, through the present, further crippling our Bill of Rights and destroying due process and our property rights. Federal district courts threw out (under the false, baloney-Feldman puffed-up “doctrine” lingo) legitimate complaints against abominable civil-rights violations by unhinged state judges – left to their own devices, unfettered by “the Fourteenth Amendment[’s] ... restrictions of State power ... which **Congress is empowered to enforce...**against State action...whether that action be executive, legislative, OR JUDICIAL.” (ex parte Virginia, 100 US 339, 346 (1880), ignored by Feldman.) Congress’ enforcement was through **the federal courts...which arrested and tried the Virginia state judge**, Coles, and the Supreme Court denied Coles’ habeas petition, and he faced trial. So federal trial courts do indeed have the jurisdiction to enforce the Bill of Rights (or Congress’ laws) on state trial-court judges. Had a few Hennepin judges done a little time for their corruption and destruction of civil rights, bad cops would not have been telegraphed the “all clear” for a knee on the neck.

In spring of 2020, Berman saw an unhinged state judge, in Hennepin County, boldly go where no corrupt court dared go before – spontaneously inventing a time-warp machine. The corrupt Hennepin phony “judge” (Kevin Burke) dismissed with prejudice Berman’s case after Burke’s time-warp invention created (issue and claim) preclusion of 2018 facts *by a case five-years closed* (2013). Burke pulled-off his glaring corruption act without a show cause order to the parties (on why his fantasy time-warp is not physically impossible), further underscoring his status as a non-judge bailing out Minneapolis crony-lawyers. This was the first of several astounding precipitating events that caused Berman to petition the Minnesota Supreme Court (on April 15, 2020) and identify a “military regime” operating in Hennepin – little dictator Burke, with a blank check from Minnesota’s Court of Appeals. Six weeks later Mr. Floyd was dead under the “boot” of that regime.

Four days before Mr. Floyd’s death, not surprising to Berman, Minneapolis federal

courts demonstrated their part in the “small circle of Minneapolis friends” protection racket that bails out corrupt Hennepin judges bailing out Minneapolis lawyer-pals from civil liability and criminal prosecution. And Feldman, of course, was the prime tool of the mob. The following week, Berman declared his first Congressional candidacies.

Despite Exxon’s “narrow ground” statement (with contradictory wording of expansive ground), federal district courts continue to toss *willy-nilly* completely-legitimate civil rights complaints against lower state courts, citing Feldman and still “misperceiving” its “narrow ground.” Additionally notably, Stevens J, dissenting in Lance v. Dennis, 546 US 459, 468 (2006), wrote that “in *Exxon* ... the Court finally interred the so-called “*Rooker-Feldman* doctrine.” And today, the Court quite properly disapproves of the District Court’s resuscitation of a doctrine that has produced nothing but mischief for 23 years.”

But Stevens himself continued to misstate the “accurate” Feldman rule: “the simple legal proposition that only this Court may exercise appellate jurisdiction over state-[HIGH] court judgments.” Again, the added HIGH properly *confines* the case to the high-court facts; and according the 14<sup>th</sup> Amendment its function of enforcing the Bill of Rights, including the arrest of state judges when necessary. And to further emphasize the point, the Supreme Court does not have “appellate jurisdiction” over a state trial-court judgment (see above diagram; there can be no arrow from the Supreme Court to a state trial court); so it is **nonsense** to interpret the language as, “only this Court [has] appellate jurisdiction over state [trial-court] judgments” (**a nonsensical interpretation**). Again, the Supreme Court has *no* jurisdiction over state trial-court judgments, but **federal trial courts do**. The “**accurate**” **Feldman principle** is the Boolean expression:  $\sim J_H \Rightarrow F_F$ , where  $J_H$  is a final judgment from the highest court in a state or DC, and  $F_F$  is a permitted Section 1983 filing in federal district court to correct a state-judge’s violation of a litigant’s civil rights. Court opinions/orders that state a legal principle can be reduced to similar Booleans *and must be* for actual substantive-law objectivity and true due process (see <https://john4midwest.com/Supcar/supcar.html> ),

Owing to lower courts not understanding (“misperceiving” and also not caring) what the Supreme Court could not itself perceive -- including its continued totally-flawed wording -- that “mischief” has put our civil rights in the junkyard and has ruined and terminated countless lives, including Mr. Floyd’s. The Eighth Circuit’s *silence* on Berman’s getting in their collective face -- including: “I have recently quoted Bonnie Raitt quoting Mose Allison: ‘They don’t know the meaning of the word.’ Words (plural) in this case: ‘frivolous’ and ‘discretion’ are two. ‘Indisputably meritless legal theory’ are others” -- confirmed that Berman was on the right track, handing the Eighth Circuit its collective head; but hearing only silence. Judges -- the “geniuses” -- have near-infinite power to put someone in his place, certainly verbally, who gets in their face like that. Their silence proved that they have nothing to say against a clear demonstration of the flagrant court corruption in Minneapolis. Berman was indeed on the right track.

In addition, the Minneapolis federal magistrate -- like so many other stupid and ignorant federal and state judges who cannot understand that the “Feldman doctrine” negates the 14<sup>th</sup> Amendment -- also believed that a state could yank away at a whim *and in an instant* a so-called “privilege” that was not a right under the Constitution. In other words, government can do whatever it wants, according to Minneapolis judges and the Eighth Circuit. However, Evitts v. Lucey, 469 US 387, 401 (1985) states the obvious: that government must always “act” with some (“due”) process and never act instantaneously (or approximately so); otherwise there is no *process* at all. Applying such continuity concepts is

second nature to physical-science students – those whom law schools really want for maximum boost to their weak metrics (but whose heads would explode from the illogic and inflated baloney-verbiage). Continuity and discontinuity are two of the keys to understanding nature (and mathematical descriptions of nature) -- such as a continuous electrostatic potential (or other zero-curl “force field”) for a boundary condition, without which one has infinite forces. But delusional notions such as infinite forces and no bounds to the abuse of power come naturally to megalomaniacal judges and lawyers, whose “royal-class” writings reflect such disconnects from reality and our Constitution.

Berman’s campaign is thus to end the abomination of the lawyer monopoly (and also address other concentrations of power; while making some hard points to the JD-degree morons about how others spend their time actually learning and working for a living, rather than extorting and embezzling money from “sacred” trust funds) that has created this royal class<sup>1</sup> of mathematical/analytical incompetents whose destructive decisions reflect their inability to pass a 10<sup>th</sup> grade math quiz. The only way to eliminate the word-twisting that has crippled our Bill of Rights is a reduction of statute and case law to Boolean terms, in order to make an actual “rule of law,” where rules of logic will not abide the destructive contradictions that presently abound.

Respondent Fox News is a media entity with nationwide distribution over cable and satellite networks.

Respondent JD Vance (FEC C00783142) is a candidate for US Senate, Ohio, who won the May 3, 2022 Ohio primary election for Republican nominee for US Senate.

Respondent Protect Ohio Values (FEC C00770495) is designated a “PAC with Non-Contribution Account - Nonqualified” on the FEC site.

Respondent Ohioans for JD (FEC C00783175) is designated a “Committee type: PAC” on the FEC site.

### III. **FACTS – SPECIFIC ALLEGATIONS AND EVIDENCE**

1. **October 17, 2021.** Berman reads Fox’s **Oct. 14, 2021** headline stating: “Vance hauls in \$1.75M.” (<https://www.foxnews.com/politics/jd-vance-ohio-senate-campaign-fundraising> ) The body of the article stated: “Vance’s campaign, sharing their [fundraising figures](#) first with Fox News on Thursday, noted that they had \$1.2

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<sup>1</sup> One need look no further than the federal courts to see the glaring equal protection violation of giving lawyers automatic efilng privileges, while others must ask permission; and a non-lawyer can never begin a case on efile, while lawyers can. Thus, the purported “bastion” of our civil rights thinks nothing of creating an obvious equal protection violation. (And non-lawyers are never given efilng privileges in the Supreme Court, which though timeliness is supposedly determined exclusively by postmark, there is evidence to the contrary.)



million cash on hand as of Oct. 1.” Berman looks at FEC site under JD VANCE FOR SENATE INC. (FEC C00783142) and reads \$1,075,994. (Exh A.) Berman assumed someone made a typo, and he emailed Fox (Exh. A) with the subject line, “News Error: Vance raised 1.075Mil, not 1.75Mil.”

2. After an hour or so, Berman refreshed the online article and saw that it read, “over \$1 Million” instead of 1.75M.
3. About a week later, Berman looked again and saw that the headline had been changed back to \$1.75M. On **10/25/21**, Berman emailed the FEC (Exh. B) with the subject line: “wondering when C000783142 Itemized individual contributions to post”
4. On **10/25/21**, the FEC replied (Exh. B): “Processing for the October Quarterly Report filed by JD Vance for Senate (C00783142) has not yet been completed. You can view the unprocessed itemized individual contributions as filed by clicking the following link: [https://www.fec.gov/data/receipts/?data\\_type=efiling&committee\\_id=C00783142](https://www.fec.gov/data/receipts/?data_type=efiling&committee_id=C00783142)”
5. Berman replied on **10/25/21**: “Are you certain you sent the correct link for unprocessed C...142? I see that committee number in the link, but...The unprocessed receipts for C...142 have some identical data to the processed receipts for C...175. The number of lines in 142 is 1864. The number of lines in 175 is 1691, which is not the same, but it's kind of close considering the apparent identical data. Maybe there's some mixup?”
6. On **10/27/21**, FEC wrote: “Thank you for contacting the Federal Election Commission. Ohioans for JD (C00783175) is a joint fundraising committee raising funds for JD Vance for Senate (C00783142) and Working for Ohio (C00783167), a leadership PAC sponsored by JD Vance. Since candidates must itemize individual contributions raised through joint fundraisers, identical records are expected.”
7. Berman had written to Fox on 10/25/21, and was focusing on the detailed information about Ohio donors and counties in the itemized donor lists, rather than the top line number, which was seemingly impossible to reconcile with that hodge-podge of data he saw. In addition, he was comparing the detailed data with the detailed claims in the Fox article, which claims seemed squarely-contradicted by the data. Berman later realized that maybe the Vance campaign had itemized *for themselves* the “unitemized donations” and made their statements based on those. In other words, the contentions about donations under \$50 from nearly all Ohio counties could not be verified – if they could be verified at all -- from the public record, only from *possibly* a collected group of “unitemized” donations in Vance’s campaign.
8. Nevertheless, the FEC top-line number of \$1.075M could not be squared, in Berman’s view, with the information in the Fox article.
9. On November 7, 2021, Berman emailed Denise Grant of the Courier Newspaper, Findlay, Ohio, with the subject line “Hoping to stop by and show you Excel sheets of Vance donation

receipts, contradicting their public statements.”. (Exh. C)

10. On November 8, 2021, Denise Grant replied: “Hello Mr. Berman, Good for you!!! I would suggest that you put your thoughts and findings in the form of a letter to the editor. **I would not be able to rely on any numbers, unless I compiled them myself** - but stay on it!” (Exh C) **Ms. Grant’s article** (Money flows fast in race for Senate seat; Exh C <https://thecourier.com/news/349030/money-flows-fast-in-race-for-senate-seat/> ) stated the numbers from the FEC website (spending: \$229,577; cash balance: \$846,417), which add to \$1,075,994.

### III. FACTUAL INFERENCES, STATUTES, LEGAL ANALYSIS

**A. Statute:** FECA's press/media exemption provides that the term "expenditure" not include "any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, UNLESS such facilities are owned or CONTROLLED by any [political party](#), [political committee](#), or [candidate](#)." 52 U.S.C. § 30101(9) (B)(i).

Analysis: The capitalized terms emphasize the obvious: that the media exemption depends principally on the term, “controlled.” This is the broader of the two terms negating the exemption – the other term: “owned.” Plainly, some legal ownership means some control (OWN⇒CONTROL), but the question here is what constitutes control without legal ownership – since presumably Vance’s committee and various Vance PACs do not have a legal ownership stake in Fox.

In *McConnell v. Federal Election Comm’n*, 540 US 93, 121 (2003), similar statutory language was discussed: “FECA...treat[s] **expenditures controlled by or coordinated with the candidate as contributions**, [but] we were **not** persuaded that **independent** expenditures posed the same risk of real or **apparent corruption** as coordinated expenditures” (%CONTROL ∪ %COORDINATED)⇒APPARENT\_CORRUPTION ⇒**VIOLATION**). Some threshold (perhaps expressed as a percentage) of control OR some threshold of coordination triggers a violation. Entity A coordinates with Entity B by ceding some percentage of control, since Entity A then does not have unilateral “*independent*” authority to act – and cannot successfully act – without coordination with Entity B. % COORDINATED > 0 ⇒ %CONTROL > 0, expresses the most strict standard, which a plain reading of the statute permits, but this could lead to absurd results, as follows.)

So, even with some very small degree of coordination, a news entity cedes some degree of control. However, coordinating the date and time of a candidate interview would make any such interview an act of control by the candidate over the news entity. That interpretation would create a violation with every interview, an absurd result.

But to what extent does coordinating the content of a published news



story – particularly one that apparently contradicts the top line number in a candidate’s FEC disclosure – constitute coordination that triggers an effective contribution of news resources to a candidate? What if there is no (or below some minimum) explanation from the candidate on why there is a discrepancy? (...that is, the candidate just phoned it in, and the news entity printed it without any independent confirmation; ZERO\_EXPLANATION  $\cap$  TOPLINE\_CONTRADICTION  $\Rightarrow$  **CONTROL** $\Rightarrow$ **VIOLATION**.) If the candidate’s explanation for an easily-determined, apparent contradiction does not meet some substantive threshold, then that would also mandate the conclusion of a violation.

Berman contacted Denise Grant of the Findlay Courier newspaper because, “I’m writing you first and, for now, exclusively because your article (Money flows fast in race for Senate seat) shows actual FEC data and is not a parroting of the Vance campaign release, which strongly appears to have false claims.” (Exh C) <https://thecourier.com/news/349030/money-flows-fast-in-race-for-senate-seat/> Ms. Grant stated: “**I would not be able to rely on any numbers, unless I compiled them myself.**” This was a news entity stating independence  $\Rightarrow$  ZERO\_COORDINATION  $\Rightarrow$  ZERO\_CONTROL.

**B. FACT:** As set forth above, within an hour after he sent his email to Fox, the headline changed to “over \$1 Million.” However, sometime within the next week, the headline changed back to \$1.75M.

Factual Inference: Berman submits that a reasonable factual conclusion is that whoever changed the Fox headline, after Berman’s email, either: 1) had not seen anything from Vance, such as a column of donations, with a summation block of approximately \$1.75 Million; or 2) had consulted with the Vance campaign, *after* Berman’s email, and confirmed the typo and then corrected it. (HEADLINE\_CHANGE  $\Rightarrow$  (NO\_SUMMATION\_FROM\_VANCE  $\cup$  VANCE\_AGREED\_TYPO ). ) These alternative conclusions make sense because **if** the person(s) making the headline change had previously seen a column of numbers summing to \$1.75 Million, then presumably he or she would have rejected Berman’s assertion of a typo and not have made the headline change. **A reasonable factual inference (not necessarily true) is that Fox had not been given a printed version of the numbers. If Fox had been given a printed version, Fox would have contacted Vance to confirm the apparent typo omitting the zero. It reasonably appears that Vance phoned-in the numbers, and Fox printed them; that is, Fox printed Vance’s numbers without having been given any documentation.** This is not necessarily the case, but it appears that way. Berman submits that the circumstances have the appearance of candidate control of a news entity or “**apparent corruption.**” (McConnell v. FEC, above.) An FEC investigation could discover the facts and shed more light on this appearance.

Since Fox *reverted* the number to \$1.75M, a reasonable factual inference is that **contact was later made between Fox and Vance, and Fox reverted the number as a result.** An FEC investigation could reveal the facts of the

communications.

**Summary of Factual Conclusions:** Berman does not know how long Vance's disclosure had been on the FEC site before Oct. 17 when Berman reviewed them. The date of the Fox article was Oct. 14. The article stated: "Vance's campaign, sharing their [fundraising figures](#) first with Fox News." There is no indication of what numbers were shared, whether anything was in writing, whether any detailed numbers were given to Fox, or whether Fox checked the numbers, by straight addition or any other way.

#### IV. **Authority of FEC to Investigate:**

The FEC is authorized to investigate and discover the facts about **whether Fox made any independent investigation** of the numbers; or whether Fox **was not an independent news operation** and was *controlled* by Vance, perhaps as a mouthpiece to release Vance's numbers to a large audience.

In a 1981 opinion of a New York federal district judge:

"There should be **no question that the FEC is authorized by the statute to pursue its investigation** at least for the limited purpose of determining whether the press exemption is applicable. Accordingly it would be **appropriate for the FEC to investigate whether a press entity charged with a violation is owned or controlled** by a party or candidate and whether the distribution complained of was of the type exempted by the statute. Without conducting such a limited investigation the FEC would be unable to determine whether the acts complained of fell within the statute's press exemption." (Reader's Digest Ass'n v. FED. ELECTION COM'N, 509 F. Supp. 1210, 1214 SDNY (1981).)

#### V. **LEGAL CONCLUSION:**

Berman submits that it is necessary and appropriate for the FEC to make an investigation into the facts surrounding Fox's headline change and reversal, concerning, "Vance's campaign, sharing their [fundraising figures](#) first with Fox News" (see Fox article) in order to ascertain the nature of "control" or "coordination that Vance had over Fox.

If the facts show that Fox merely accepted, without documentation from Vance, Vance's assertion that the \$1.75 Million was correct – despite the apparent conflict with the FEC disclosure – then a reasonable person would conclude that Vance had – at least in that instance -- substantial control over what Fox prints as "news;" and that Fox is the essential equivalent of an unquestioning PR firm or media mouthpiece for Vance, in contrast with an independent news operation such as the Findlay Courier newspaper with a real reporter like Ms. Grant.

The evidence and facts coming from an FEC investigation would shed more light on the headline-correction and its reversal.

A controlling relationship – of Vance controlling Fox – should negate the media exemption – at a minimum for this instance and maybe other instances -- and open a calculation of an in-kind contribution from Fox to Vance (and also possibly to the committees/PACs supporting Vance). That calculation should address whatever Fox-media coverage of Vance is excess coverage beyond that given to candidates *without* their own controlled government-licensed, nationwide media entity.

Filed May 11, 2022,

John Berman

notarized signature below

# Exhibits

ews Error: Vance raised 1.075Mil, not 1.75Mil Inbox x

Exh A



ohn Berman ·

Sun, Oct 17, 2021, 6:59 AM



newsmanager, newswatch, tips, news, news, newsdesk, shyvonen, tuckercarlson tonight, bcc: hannity, bcc: paul.steinhauser, bcc: Kimmie, bcc: in

ur headline and article are in error. Vance raised 1.075Mil, not 1.75Mil (see below).

ohn Berman, John4Midwest.com



- JD VANCE FOR SENATE INC. (C00783142)

## Total raised

[Browse receipts](#)

Coverage dates: 05/01/2021 to 09/30/2021

<b>TOTAL RECEIPTS</b>	<b>\$1,075,994.71</b>
<b>TOTAL CONTRIBUTIONS</b>	<b>\$301,994.71</b>
Total individual contributions	\$291,994.71
Itemized individual contributions	\$239,067.50
Unitemized individual contributions	\$52,927.21
Party committee contributions	\$0.00
Other committee contributions	\$10,000.00
Candidate contributions	\$0.00
<b>TRANSFERS FROM OTHER AUTHORIZED COMMITTEES</b>	<b>\$674,000.00</b>
<b>TOTAL LOANS RECEIVED</b>	<b>\$100,000.00</b>
Loans made by candidate	\$100,000.00
Other loans	\$0.00

# Ohio Senate candidate JD Vance hauls in \$1.75M during first 3 months of his GOP campaign

Vance among the major contenders in one of the biggest, most competitive 2022 GOP Senate primaries

By Paul Steinhauser | Fox News



**FIRST ON FOX:** J.D. Vance, the venture capitalist and the author of the bestselling memoir "Hillbilly Elegy," brought in more than \$1.75 million in fundraising in the first three months of his Senate campaign in Ohio, in the crowded Republican primary battle in the 2022 race to succeed retiring GOP Sen. Rob Portman.





# Exh B

John Berman

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**RE: wondering when C000783142 Itemized individual contributions to post**

4 messages

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**no-reply@fec.gov** <no-reply@fec.gov>  
Reply-To: "no-reply@fec.gov" <no-reply@fec.gov>  
To:

Mon, Oct 25, 2021 at 1:24 PM

Thank you for contacting the Federal Election Commission.

Processing for the October Quarterly Report filed by JD Vance for Senate (C00783142) has not yet been completed. You can view the unprocessed itemized individual contributions as filed by clicking the following link: [https://www.fec.gov/data/receipts/?data\\_type=efiling&committee\\_id=C00783142](https://www.fec.gov/data/receipts/?data_type=efiling&committee_id=C00783142)

Should you have further questions, please do not hesitate to contact staff in the Information Division at 202-694-1100 or 1-800-424-9530 (prompt 6).

FEC Information Division

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**===== ORIGINAL MESSAGE =====**

**From:**  
**Sent:** 2021-10-24 10:02:33  
**Subject:** wondering when C000783142 Itemized individual contributions to post

- D VANCE FOR SENATE INC. (C00783142)

[https://www.fec.gov/data/receipts/?committee\\_id=C00783142&two\\_year\\_transaction\\_period=2022&two\\_year\\_transaction\\_period=2020&two\\_year\\_transaction\\_period=2018&line\\_number=F3-11AI&data\\_type=processed](https://www.fec.gov/data/receipts/?committee_id=C00783142&two_year_transaction_period=2022&two_year_transaction_period=2020&two_year_transaction_period=2018&line_number=F3-11AI&data_type=processed)

these individual contributions have not posted yet. Have they been submitted?

-thanks

Ref:MSG0181587

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**John Berman** < >  
To: "no-reply@fec.gov" <no-reply@fec.gov>

Mon, Oct 25, 2021 at 3:57 PM

Are you certain you sent the correct link for unprocessed C...142? I see that committee number in the link, but...

The unprocessed receipts for C...142 have some identical data to the processed receipts for C...175. The number of lines in 142 is 1864  
The number of lines in 175 is 1691, which is not the same, but it's kind of close considering the apparent identical data.

Maybe there's some mixup?

[Quoted text hidden]

## Mail Delivery Subsystem

Mon, Oct 25, 2021 at 3:58 PM

To:

**Message blocked**

Your message to **no-reply@fec.gov** has been blocked. See technical details below for more information.

The response from the remote server was:

550 5.4.1 Recipient address rejected: Access denied. AS(201806281) [DM3GCC02FT005.eop-gcc02.prod.protection.outlook.com]

Final-Recipient: rfc822; no-reply@fec.gov

Action: failed

Status: 5.4.1

Remote-MTA: dns; fec-gov.mail.protection.outlook.com. (104.47.65.110, the server for the domain fec.gov.)

Diagnostic-Code: smtp; 550 5.4.1 Recipient address rejected: Access denied. AS(201806281) [DM3GCC02FT005.eop-gcc02.prod.protection.outlook.com]

Last-Attempt-Date: Mon, 25 Oct 2021 15:58:11 -0700 (PDT)

----- Forwarded message -----

From: John Berman <

To: "no-reply@fec.gov" <no-reply@fec.gov>

Cc:

Bcc:

Date: Mon, 25 Oct 2021 15:57:57 -0700

Subject: Re: wondering when C000783142 Itemized individual contributions to post

----- Message truncated -----

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no-reply@fec.gov <no-reply@fec.gov>

Wed, Oct 27, 2021 at 6:03 AM

Reply-To: "no-reply@fec.gov" <no-reply@fec.gov>

To:

Thank you for contacting the Federal Election Commission.

Ohioans for JD (C00783175) is a joint fundraising committee raising funds for JD Vance for Senate (C00783142) and Working for Ohio (C00783167), a leadership PAC sponsored by JD Vance. Since candidates must itemize individual contributions raised through joint fundraisers, identical records are expected.

More information on joint fundraising can be found at <https://www.fec.gov/help-candidates-and-committees/joint-fundraising-candidates-political-committees/>

Should you have further questions, please do not hesitate to contact staff in the Information Division at 202-694-1100 or 1-800-424-9530 (prompt 6).

FEC Information Division

Please note that the guidance provided by this correspondence is strictly informational and is NOT legally binding. Only the Commission, via the Advisory Opinion process, has the authority to issue a legally binding opinion. This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you are not the named addressee you should not disseminate, distribute or copy this e-mail.

===== ORIGINAL MESSAGE =====

**From:**

**Sent:** 2021-10-25 23:02:54

**Subject:** RE: RE: wondering when C000783142 Itemized individual contributions to post

Are you certain you sent the correct link for unprocessed C...142? I see that committee number in the link, so it seems correct, but...

The unprocessed receipts for C...142 have some identical data to the processed receipts for C...175. The number of lines in 142 is 1864  
The number of lines in 175 is 1691, which is not the same, but it's kind of close considering the apparent identical data.

Maybe there's some mixup?

>>>>Thank you for contacting the Federal Election Commission.

Processing for the October Quarterly Report filed by JD Vance for Senate (C00783142) has not yet been completed. You can view the unprocessed itemized individual contributions as filed by clicking the following link:  
[https://www.fec.gov/data/receipts/?data\\_type=efiling&committee\\_id=C00783142](https://www.fec.gov/data/receipts/?data_type=efiling&committee_id=C00783142)

Ref:MSG0181743



# Exh C

John Berman

## Hoping to stop by and show you Excel sheets of Vance donation receipts, contradicting their public statements

6 messages

**John Berman**

To: denisegrant@thecourier.com

Sun, Nov 7, 2021 at 8:12 AM

Dear Ms. Grant,

I would like to stop by your offices and show you excel sheets of JD Vance's FEC receipts data -- sorted and identifying and counting unique Ohio addresses and unique donors and the minimum total donation from any donor -- plus my email inquiries to the FEC and their replies; also, my emails to Fox News.

I'm writing you first and, for now, exclusively because your article (Money flows fast in race for Senate seat) shows actual FEC data and is not a parroting of the Vance campaign release, which strongly appears to have false claims.

The critical numbers in the Fox News "release" for the Vance campaign appear bogus. I first wrote to Fox on Oct 17, three days after their Oct 14 release.

Fox initially -- within one hour of my email -- changed Vance's top line number from 1.75Mil quarterly receipts to the 1.075Mil I pointed to on the FEC site. Sometime in the next few days, they changed it back to 1.75M. I assumed, and still do, that Fox spoke with Vance's campaign and decided to change it back based on what they heard.

My focus now is not on the top line number but on Ohio donors. I believe I have identified all of the relevant committees and PACs, based on my FEC communications, see below.

Fox hasn't replied to me. i emailed them again on October 25. I attached an excel sheet of the processed FEC data from Ohioans for JD (FEC committee C00783175).

The number of unique Ohio donors and households is under 350 each, and the minimum total donation of any one individual was \$205. This contradicts Vance's stated 7500+ unique donors, which phrasing plainly states that these donors were from Ohio.

The processed data for JD Vance for U.S. Senate Inc (C00783142) was not on the FEC site yet, but my eyeball scan of the C142 raw data looked like a carbon copy of the data in Ohioans for JD -- same donors, same amounts. The FEC had pointed me to the raw data after they confirmed that the C142 data had not been processed yet:

"Thank you for contacting the Federal Election Commission.  
Oct 25, 2021, 1:24 PM

Processing for the October Quarterly Report filed by JD Vance for Senate (C00783142) has not yet been completed. You can view the unprocessed itemized individual contributions as filed by clicking the following link: [https://www.fec.gov/data/receipts/?data\\_type=efiling&committee\\_id=C00783142](https://www.fec.gov/data/receipts/?data_type=efiling&committee_id=C00783142) "

I noted all this to Fox on Oct 25. No response.

I waited for the processed C142 data. I saw it three days ago. I put the Ohio processed data, sorted, from the two committees (142 and 175) together in an excel sheet, and aligned them row-by-row by adding blank rows, which was easy because they are virtually identical, with about 10 or 20 additional donors in one committee but not in the other (and vice versa, in total). Also, per the FEC (see full correspondence, below), 142 and 175 appear to be the only data with many donors -- the other committee/PAC the FEC mentioned (see attached print of emails) was C00783167, Working for Ohio, which has no receipt data -- raw or processed.

Protect Ohio Values (C00770495), which sponsors Google ads, is Theil with 10M and Mercers 150K. I might be missing a committee, but i doubt it, since the FEC didn't mention any committees other than 142, 175, and 167.

I attached my combined excel sheet and emailed Fox the following:

"There are 331 unique Ohio addresses between the two committees (I pasted all addresses in column Z, with each unique address flagged with a 1 in column AC, with the sum in cell AC1122. The minimum total donation for any Ohio individual is still 205."

"I see ~331 unique Ohio addresses and ~340 unique Ohio donors. ... the point is that the numbers are peanuts compared to what is suggested by your release for Vance -- 7500 unique donors AND from 86 of 88 Ohio counties. There really isn't much wiggle room there. It sounds like a false statement from Vance, not simply exaggerated."

The statement of "Vance's grassroots appeal, pointing out the more than half of donors contributed \$50 or less" is totally misleading. It immediately follows, "Ohio counties," so it clearly refers to Ohio. Many donors in Ohio made repeated small donations, some under \$50, but the smallest total from any one person was \$205. In other words, no Ohio donor gave a total donation less than \$205. And there were only 340 unique Ohio donors.

I also wrote: "And I don't see how there can be 7500 unique donors, even in total, when C142 has 1864 lines and C175 has 1691 lines. There are only ~3500 lines of data. Those cannot hold 7500 donors."

It is possible that they had 7500 donors nationwide (I haven't checked), but the statement has no actual wiggle room for that.

I shared all this by email with Fox News and its Ohio affiliates. They are presumably reading what I've written because, as I mentioned, they initially changed Vance's top line number from 1.75M to 1.075M, shortly after I emailed them on October 17.

Regards,

John Berman  
John4Midwest.com

The only candidate with a mobile app (in beta test), draft legislation, and specific, viable solutions to the principal structural problems in government.



**Gmail - RE\_ wondering when C000783142 Itemized individual contributions to post.pdf**  
224K

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**Denise Grant** <denisegrant@thecourier.com>  
To: John Berman <

Mon, Nov 8, 2021 at 9:26 AM

Hello Mr. Berman,

Good for you!!!

I would suggest that you put your thoughts and findings in the form of a letter to the editor. I would not be able to rely on any numbers, unless I compiled them myself - but stay on it!

My next stop is a look at all the Super PAC spending in this race so far - the numbers are staggering.

Thank you, Mr. Berman and good luck!

Denise

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**From:** John Berman <

**Sent:** Sunday, November 7, 2021 11:12 AM

**To:** Denise Grant <denisegrant@thecourier.com>

**Subject:** Hoping to stop by and show you Excel sheets of Vance donation receipts, contradicting their public statements

[Quoted text hidden]

## VERIFICATION

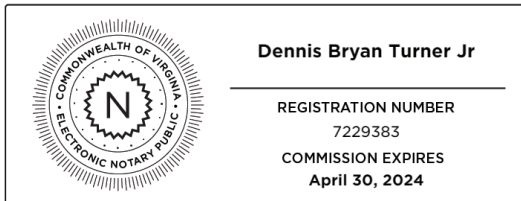
I, John Berman, Complainant in this matter, hereby verify that my statements made in the above Complaint are, on information and belief, true. On personal knowledge, I verify that the exhibited copies of emails are true and correct copies. Sworn pursuant to 18 U.S.C. § 1001.



05/12/2022

John Berman

Subscribed to and sworn to before me this 12th day of May 2022



Commonwealth of Virginia

County of Virginia Beach

The foregoing instrument was subscribed and sworn  
before me on 05/12/2022 by John Berman.



7229383

My commission expires: 04/30/2024

Notarized online using audio-video communication