

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

JAMES V. LACY, ET AL.,

Civil Action No. 1:25-cv-01808-RDM

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION,

Defendant,

and

NATIONAL PUBLIC RADIO, INC.,

Defendant-Intervenor.

AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. This Amended Complaint is filed pursuant to the Court's May 1, 2026 Minute Order, which (notwithstanding the stay pending further order of the Court to await the issuance of an opinion from the D.C. Circuit in *End Citizens United PAC v. Federal Election Commission*, No. 22-5277) granted Plaintiffs leave to file an amended complaint by May 22, 2026, containing more detailed allegations regarding their standing to sue.

2. This is an action brought pursuant to 52 U.S.C. § 30109(a)(8)(A) of the Federal Election Campaign Act of 1971, as amended ("FECA"), challenging the Federal Election Commission's ("FEC") dismissal of an administrative complaint filed by United States Justice

Foundation and Policy Issues Institute (whose President is James V. Lacy) and Alexander Tomescu (collectively, "Plaintiffs") against National Public Radio ("NPR").

3. Plaintiffs allege that NPR violated FECA by making prohibited in-kind corporate contributions to 2024 Presidential candidates Joseph R. Biden and Kamala Harris and failing to report independent expenditures in support of Biden and Harris. This action does not seek to defund NPR but instead simply to have it regulated by the FEC, like any other federal political action committee whose content amounts to express advocacy expenditures made in coordination with candidates.

4. On October 10, 2024, Plaintiffs filed their administrative complaint with the FEC and the complaint was designated as Matter Under Review ("MUR") 8328. On April 21, 2025, the FEC notified counsel for Plaintiffs that, after considering the matter and information NPR provided to the FEC in response to the administrative complaint, the FEC had voted to dismiss the matter and close its file.

5. Pursuant to 52 U.S.C. § 30109(a)(8), if the FEC dismisses an administrative complaint, the complainant may file an action in this Court within sixty (60) days of the dismissal, seeking judicial review of the FEC's action and a declaration that the FEC's dismissal was contrary to law.

6. On June 9, 2025, the Complaint in this action was timely filed pursuant to 52 U.S.C. § 30109(a)(8), and this Amended Complaint is timely filed pursuant to the Court's May 1, 2026 Order.

7. Plaintiffs seek judicial review of the FEC's action dismissing MUR 8328 and a declaration that such dismissal was arbitrary, capricious, and contrary to law pursuant to 52

U.S.C. § 30109(a)(8)(C). Plaintiffs further seek an order from this Court requiring that the FEC act in conformance with such declaration within 30 days.

JURISDICTION & VENUE

8. This Court has both subject matter and personal jurisdiction over this action pursuant to 52 U.S.C. § 30109(a)(8)(A). This Court also has jurisdiction over this matter pursuant to 28 U.S.C. § 1331.

9. Venue lies in this district pursuant to 52 U.S.C. § 30109(a)(8)(A) and 28 U.S.C. § 1391(e).

PARTIES

Plaintiff James V. Lacy

10. Plaintiff James V. Lacy ("Lacy") is an individual residing in Orange County, California who brings this action in his capacity as the Founder and President of Plaintiff United States Justice Foundation ("USJF") and the President of Plaintiff Policy Issues Institute ("PII"). Lacy participates in these organizations' public-education, advocacy, legal-analysis, and public-commentary activities relating to constitutional governance, federal elections, campaign-finance issues, and matters of public concern.

11. Lacy regularly reviews and relies on FECA disclosure information in connection with his activities on behalf of USJF and PII relating to constitutional advocacy, public commentary, election-related analysis, and public-policy issues affecting federal elections.

Plaintiff United States Justice Foundation

12. Plaintiff United States Justice Foundation ("USJF") is a California nonprofit organization with its principal place of business in Laguna Niguel, California, and was founded

in 1979 as a nonprofit public interest, legal action organization dedicated to instructing, informing, and educating the public on, and litigating on, significant issues confronting America. The attorneys who founded USJF sought to advance the original understanding of constitutional jurisprudence in the judicial arena. USJF continues to be involved in public interest litigation, for example, as a successful plaintiff seeking government records pursuant to the Freedom of Information Act in *Lacy v. U.S. Dep't of State*, No. SA CV 22-1065-DOC, 2023 WL 4317659 (C.D. Cal. May 3, 2023).

13. USJF, via Lacy, co-Plaintiff Alex Tomescu (“Tomescu”), and others, regularly reviews and relies upon FECA disclosure information in connection with its activities relating to constitutional advocacy, public commentary, election-related analysis, and public-policy issues affecting federal elections.

Plaintiff Policy Issues Institute

14. Plaintiff Policy Issues Institute is a California nonprofit organization with its principal place of business in Laguna Niguel, California, and has worked over the last two decades to educate and inform the public regarding public policy issues that impact the constitutional order upon which our country was founded. PII is primarily focused on promoting robust First Amendment protections for citizens and exposing government overreach that contravenes fundamental American principles such as free speech, freedom of the press, and other natural rights enumerated in the Constitution.

15. PII, via Lacy, Tomescu and others, regularly reviews and relies upon FECA disclosure information in connection with its activities relating to constitutional advocacy, public commentary, election-related analysis, and public-policy issues affecting federal elections.

Plaintiff Alexander Tomescu

16. Plaintiff Alexander Tomescu is an individual residing in Orange County, California, is affiliated with USJF and PII, and participates in educational, advocacy, and public-policy activities relating to constitutional governance, political advocacy, federal elections, and public affairs. Tomescu regularly reviews and relies upon FECA disclosure information in connection with his activities on behalf of USJF and PII relating to constitutional advocacy, public commentary, election-related analysis, and public-policy issues affecting federal elections.

Defendant Federal Election Commission

17. Defendant FEC is an independent federal agency charged with the administration and civil enforcement of FECA. 52 U.S.C. § 30106.

PLAINTIFFS' STANDING AND INFORMATIONAL INJURY

18. Plaintiffs are active participants in the federal political process who regularly review and rely upon disclosures required pursuant to FECA, including disclosures made through Statements of Organization, periodic campaign-finance reports, independent expenditure reports, and related filings submitted to the FEC.

19. FECA's disclosure regime exists to ensure that participants in federal elections may evaluate the sources, amounts, purposes, and recipients of election-related spending and political activity affecting federal campaigns and candidates.

20. Plaintiffs regularly use FECA-required disclosures to evaluate political advocacy, assess the sources and magnitude of election-related expenditures, analyze coordination and influence in federal elections, monitor compliance with federal campaign-finance laws, engage in

political advocacy and commentary, and make decisions regarding their own participation in the political process.

21. If NPR was functioning as a "political committee" within the meaning of FECA during the 2024 federal election cycle, FECA required NPR to register and publicly disclose information including, but not limited to:

- a. a Statement of Organization;
- b. the identity of contributors whose contributions exceeded applicable statutory thresholds;
- c. the amounts and dates of such contributions;
- d. expenditures and disbursements made for the purpose of influencing federal elections;
- e. the recipients and purposes of such expenditures;
- f. debts, obligations, vendors, consultants, and service providers associated with election-related spending;
- g. independent expenditures and electioneering communications;
- h. the timing and amounts of expenditures relating to federal candidates; and
- i. other information required by FECA and FEC regulations through FEC Forms 1, 3X, and related disclosure filings.

22. Because NPR did not register or report as a political committee, Plaintiffs were deprived of information FECA requires political committees to publicly disclose.

23. Plaintiffs were deprived of the ability to review and analyze the identity of contributors funding NPR's alleged election-related activities, the amounts and timing of those

contributions, the expenditures allegedly made to influence federal elections, the extent and nature of any election-related disbursements, the identities of vendors or consultants involved in such activities, and related information that FECA requires political committees to disclose publicly.

24. Plaintiffs seek this information not merely to advance abstract interests in law enforcement, but because FECA grants participants in federal elections a concrete informational interest in campaign-finance disclosures relating to entities allegedly engaged in election-related political activity.

25. The information allegedly withheld is directly relevant to Plaintiffs' informed participation in the political process, including: evaluating alleged election-related influence, political activity, and expenditures affecting federal elections; assessing the sources and extent of political spending affecting such elections; engaging in political advocacy and commentary; and making decisions regarding electoral participation and public communications.

26. The FEC's dismissal of Plaintiffs' administrative complaint deprived Plaintiffs of access to this statutorily required information by permitting NPR to avoid the disclosure obligations applicable to political committees pursuant to FECA.

27. Plaintiffs' informational injury is concrete and particularized because Plaintiffs personally use, review, analyze, and rely upon FECA disclosures in connection with their participation in federal elections, political advocacy, public commentary, and evaluation of election-related activity affecting federal candidates and campaigns.

28. Plaintiffs regularly review and rely upon campaign-finance disclosures publicly available pursuant to FECA in connection with their educational activities, legal analysis,

advocacy efforts, public commentary, and evaluation of election-related political activity affecting federal candidates and federal elections.

29. Plaintiffs use FECA disclosure information to evaluate the sources, amounts, timing, recipients, and purposes of election-related expenditures and political activity, including expenditures allegedly intended to influence federal elections.

30. Plaintiffs also rely upon FECA disclosures to analyze contributors, expenditures, disbursements, vendors, consultants, organizational relationships, independent expenditures, and related financial and political information concerning entities engaged in election-related advocacy.

31. FECA's disclosure requirements exist in substantial part to provide participants in federal elections with information concerning the sources and uses of election-related spending and political activity.

32. The deprivation of this information impaired Plaintiffs' ability to evaluate election-related political activity, assess alleged efforts to influence federal elections, engage in informed public commentary and advocacy, educate the public concerning election-related activity, and participate fully and knowledgeably in the political process.

STATUTORY AND REGULATORY FRAMEWORK

33. FECA was enacted to "to limit the actuality and appearance of corruption resulting from large individual financial contributions." *Buckley v. Valeo*, 424 U.S. 1, 26 (1976) (per curiam). FECA limits the dollar amounts and permissible sources of contributions to candidates and requires public disclosure of funds spent or received to influence federal elections. This disclosure "provides the electorate with information . . . in order to aid the voters

in evaluating those who seek federal office," helps "deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity," and is "an essential means of gathering the data necessary to detect violations of the contribution limitations." *Id.* at 67-68.

34. Pursuant to FECA, a "contribution" is defined as "money or anything of value made by any person for the purpose of influencing any election for Federal office." 52 U.S.C. § 30101(8)(A)(i). "Anything of value" includes "all in-kind contributions." 11 C.F.R. § 100.52(d)(1). The Act imposes aggregate limits on contributions to candidates and their authorized committees per election. 52 U.S.C. § 30116(a).

35. Corporations are prohibited from making any contributions to federal candidates, and federal candidates are prohibited from accepting corporate contributions. 52 U.S.C. § 30118(a).

36. Unlike contributions to candidates, expenditures that "expressly advocate" for or against the election of a federal candidate are generally not subject to dollar limits pursuant to FECA. See 11 C.F.R. § 100.22 (defining "expressly advocating").

37. However, any expenditure by a person other than a candidate or candidate's authorized committee that is "coordinated" with a candidate is an in-kind contribution to the candidate and must be reported as a contribution to, and expenditure by, that candidate's authorized committee. 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.21(b)(1). "Coordinated" means "made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate [or] a candidate's authorized committee," including an agent thereof. 11 C.F.R. § 109.20(a).

38. The definition of "expenditure" pursuant to FECA excludes the costs of "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); see also 11 C.F.R. §§ 100.132. The Commission's regulations also exempt "[a]ny cost incurred in covering or carrying a news story, commentary, or editorial" from the definition of "contribution." 11 C.F.R. § 100.73. These exemptions are known as FECA's "press exemption."

39. The FEC has developed a two-part test to determine whether the press exemption applies to specific activity. First, the Commission asks whether the organization engaging in the activity is a "press entity," i.e., "whether the entity in question is in the business of producing, on a regular basis, a program that disseminates news stories, commentary, and/ or editorials." FEC Advisory Op. 2019-05 at 4. For the second part of the press exemption framework, the FEC considers whether: (i) the entity is owned or controlled by a political party, political committee, or candidate; and (ii) the activity in question is a "legitimate press function." See FEC Advisory Op. 2011-11 at 6-7. To decide whether activity qualifies as a "legitimate press function," the Commission assesses whether the entity's materials are available to the general public and are comparable in form to other materials that it ordinarily publishes. See FEC Advisory Op. 2010-08 at 6; FEC Advisory Op. 2008-14 at 5.

40. Candidate committees must report all contributions (including the value of in-kind contributions and coordinated expenditures) exceeding \$200. 52 U.S.C. § 30104(b)(3)(A); 11 C.F.R. §§ 104.3, 104.8. Similarly, candidate committees must report expenditures (including coordinated expenditures) exceeding \$200. 52 U.S.C. § 30104(b)(5)(A); 11 C.F.R. §§ 104.3,

104.9.

41. Any person who believes there has been a violation of FECA may file a sworn administrative complaint with the FEC. 52 U.S.C. § 30109(a)(1). Based on the complaint, the response from the person or entity alleged to have violated FECA, and facts and recommendations developed by the Office of General Counsel, the FEC then decides whether there is "reason to believe" that a violation of FECA has occurred. 52 U.S.C. § 30109(a)(2). A "reason to believe" finding exists where an administrative complaint "credibly alleges" that a violation of FECA "may have occurred." FEC, Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007). If at least four commissioners vote to find there is "reason to believe" a violation of the FECA has occurred, the FEC must notify the respondents of that finding and "shall make an investigation of such alleged violation." 52 U.S.C. § 30109(a)(2).

42. If the FEC instead dismisses an administrative complaint, an action may be filed in this Court to reverse such dismissal by seeking a judicial declaration that the dismissal was contrary to law. 52 U.S.C. § 30109(a)(8)(A). A court may find that the FEC's dismissal of an administrative complaint was contrary to law "if the Commission relied on 'an impermissible interpretation of the Act,' or the dismissal was otherwise 'arbitrary or capricious, or an abuse of discretion.'" *End Citizens United PAC v. FEC*, 69 F.4th 916, 918 (D.C. Cir. 2023) (quoting *Orloski v. FEC*, 795 F.2d 156, 161 (D.C. Cir. 1986)). Specifically, courts review dismissal of an administrative complaint "by considering the rationale offered by the Commissioners who voted against enforcement." *Campaign Legal Ctr v. 45 Committee, Inc.*, 118 F.4th 378, 391 (D.C. Cir. 2024).

FACTS

43. On October 10, 2024, Plaintiffs filed an administrative complaint with the FEC against NPR, which attached the USJF report entitled "NPR Exposed: Why NPR Fails FEC Press Exemption." A true and correct copy of the administrative complaint and the USJF report are attached hereto as **Exhibit 1** and incorporated herein by this reference.

44. The administrative complaint alleged that NPR violated 11 C.F.R. § 100.73 and other parts of the Act, and requested that the FEC: (1) investigate these allegations; (2) find reason to believe that NPR violated FECA; (3) conduct an investigation to determine the extent of the violations; and (4) take appropriate enforcement action to protect the public interest and the integrity of the electoral and campaign finance system.

45. Among the claims made in the administrative complaint were:

a. Throughout the 2024 general election cycle, and since at least the 2020 election cycle, NPR and its employees and agents engaged in conduct amounting to express advocacy in support of the Democratic nominee for the President of the United States (initially, President Joe Biden, and later Vice President Kamala Harris) and in opposition to the Republican nominee, then-former President Donald J. Trump. In doing so, NPR failed to meet the FEC's standard of a "bona fide news organization."

b. Pursuant to 11 C.F.R. § 100.73 and the FEC's press exemption, a bona fide news organization is exempt from federal campaign contribution restrictions with respect to its costs in "covering or carrying a news story, commentary, or editorial." NPR, however, advocates for Democratic Presidential nominees and against the Republican Presidential nominees in a manner that transgresses the press exemption and instead meets the "express advocacy" standard

set forth in 52 U.S.C. § 30101(17) and 11 C.F.R. § 100.22(b).

c. NPR is not a bona fide news organization in that its coverage of the 2024 presidential election failed to meet the FEC's press exemption due to its express advocacy in support of the Democratic nominee and against then-former President Trump. Accordingly, commentary, analysis, and editorializing by NPR's employees and agents should not be subject to FECA's press exemption. Instead, NPR's coverage of the Presidential race violated FECA, because NPR's "journalism" amounted to an illegal, undisclosed corporate contribution, initially to the Biden campaign and then to the Harris campaign.

d. NPR engages in "express advocacy" that is beneficial to Democratic candidates. Pursuant to 11 C.F.R. § 100.22(b)(1-2), express advocacy occurs in connection with communications which, "when taken as a whole and with limited reference to external events, such as the proximity to the election, could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because: 1) the electoral portion of the communication is unmistakable, unambiguous and suggestive of only one meaning; and 2) reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action." It was apparent, both before and after former Vice President Harris became the Democratic Presidential nominee, that NPR, and several of its employees and agents, were expressly advocating for the election and policies of the Democratic Party's nominee and against those of the Republican nominee. Indeed, it is abundantly clear that NPR, through its editorial decisions and the presentation of the news by its employees and agents, was unabashedly engaging in express advocacy in favor of Biden, and then Harris. In doing so, NPR

demonstrated its failure to meet FECA's free press exemption for campaign expenditure restrictions through its express advocacy against then-former President Trump. As described below, NPR either chose not to provide coverage to certain stories that were potentially unfavorable to the Democratic candidate or provided disproportionate coverage of stories that were inaccurate or misleading but harmful to the Republican candidate.

e. Individuals affiliated with and financially supportive of Democratic candidates exercise substantial influence within NPR's leadership structure. The Democratic Party, through its donors, volunteers, and agents, constitutes and exercises control over, a majority of NPR's Board of Directors, including, but not limited to, NPR President and CEO Katherine Maher and NPR Foundation Board Chair John McGinn.

f. Indeed, much of NPR's Board of Directors are frequent, and exclusive, donors to the Democratic Party, totaling hundreds of thousands of dollars. For instance, since 2018, NPR Board Member Matthew Barzun has donated nearly \$350,000 to Democratic candidates, including \$20,000 just two weeks after his appointment to the Board. NPR Board Member and Foundation Board Chair McGinn donated close to \$6,000 to the 2020 Biden Campaign during his tenure.

g. Importantly, the press exemption does not apply to media corporations that are "owned or controlled by any political party committee, political committee, or candidate." 52 U.S.C. § 30101(9)(B)(i); (see also FEC Advisory Opinion 2005-07. "Corporate contribution prohibitions would apply with equal force to all media corporations unless their activities fall within the specific exemption for any news story, commentary, or editorial." (USJF Report, at 3 & 933.)

h. NPR fails to operate like a typical news organization. NPR's activity surrounding its treatment of then-former President Trump constitutes "express advocacy" and reportable campaign activity and, as such, requires proper campaign finance disclosure. In April 2024, then-NPR employee Uri Berliner ("Berliner"), a Peabody Award-winning journalist who worked at NPR for 25 years, disclosed facts evidencing extreme political bias at NPR, a failure to abide by journalistic ethical standards, and conduct allegedly intended to influence the outcome of the 2024 presidential election. NPR's actions constitute reportable campaign activities as they are not typical journalistic activities, nor are they a "legitimate press function." (USJF Report, at 3 & 37-38.)

46. A true and correct copy of Berliner's article is attached hereto as **Exhibit 2** and incorporated herein by this reference. Among the observations Berliner made about NPR's bias are:

a. NPR, which purports to consider all things and once had an open minded spirit, has lost America's trust and lost its way by telling listeners how to think.

b. The rise of NPR's advocacy took off with Donald Trump, whose election in 2016 was greeted with a mixture of disbelief, anger, and despair. NPR's coverage evolved from traditional reporting into advocacy-oriented coverage concerning President Trump. Persistent rumors that the Trump campaign colluded with Russia over the election drove NPR's reporting. NPR hitched its wagon to Trump's most visible antagonist, Representative Adam Schiff (D-Calif.), who, as the top Democrat on the House Intelligence Committee, became NPR's "go-to" guest. NPR interviewed Schiff approximately twenty-five times about Trump and Russia, and during many of those conversations, Schiff alluded to purported evidence of collusion. The

Schiff talking points became the drumbeat of NPR news reports. But when the Mueller report found no credible evidence of collusion, NPR's coverage was notably sparse and "Russiagate" quietly faded from its programming.

c. In October 2020, the New York Post published an explosive report about the laptop Hunter Biden abandoned at a Delaware computer shop containing emails about his sordid business dealings. With the election only weeks away, NPR turned a blind eye, with its managing editor for news explaining: "We don't want to waste our time on stories that are not really stories, and we don't want to waste the listeners' and readers' time on stories that are just pure distractions." But it wasn't a pure distraction, or a product of Russian disinformation. The laptop did belong to Hunter Biden and its contents revealed his connection to the corrupt world of multimillion-dollar influence peddling and its possible implications for his father, Joe Biden. One of NPR's more talented journalists said that it was good that NPR wasn't following the laptop story because it could help Trump.

d. Having deemed the "lab leak" theory of COVID's origins to be "racist" or a "right-wing conspiracy theory," NPR reported that the theory of COVID escaping from a lab had been debunked by scientists when it had not. NPR did not change course, even after the U.S. Department of Energy announced that a lab leak was the most likely explanation for the emergence of the virus. It can be surmised that labeling the more dominant theory amongst Republicans as "racist" and rejecting its plausibility outright, despite evidence to the contrary, was by design.

e. In Washington, D.C., where NPR is headquartered and many of its reporters and staff live, Berliner noted that 87 registered Democrats and no Republicans were

working in editorial positions.

f. NPR fails to meet the standard for a press exemption insofar as it did not operate like a typical, bona fide news organization in its coverage of the 2024 presidential election. NPR hired President and CEO Katherine Maher - a former Biden for President campaign volunteer who has made numerous federal campaign contributions to Democrat campaigns or political action committees and has been a vocal Trump opponent - even though she had never worked in journalism. In 2024, Berliner criticized the hiring of Maher as moving NPR in the wrong direction away from ethical journalism. (USJF Report, at 3 & 34-36.) Notably, on March 26, 2025, Maher testified under oath before Congress. A true and correct copy of Maher's testimony is attached hereto as **Exhibit 3** and incorporated herein by this reference. Maher admitted that NPR's leadership acknowledges it made mistakes in its coverage of the Hunter Biden laptop story. Maher also said that she regretted her 2020 tweets in which she described President Trump as a "racist" and "sociopath."

g. NPR fails to meet the press exemption framework. In considering the scope of the press exemption, the FEC has relied on a two-part framework presented in *Reader's Digest Association v. FEC*, 509 F. Supp. 1210, 1215 (S.D.N.Y 1981): (1) Whether the press entity is owned or controlled by a political party, political committee, or candidate; and (2) Whether the activity at issue is a "legitimate press function." NPR has failed both parts of this framework, because it is controlled by members of the Democratic Party and it did not act as a press entity in its one-sided coverage of the candidates for President in the 2024 election cycle.

ADMINISTRATIVE PROCEEDINGS

47. On October 11, 2024, Plaintiffs filed their administrative complaint and the USJF

Report with the FEC.

48. On October 17, 2024, the FEC sent Plaintiffs' counsel a letter acknowledging receipt of the administrative complaint and USJF Report and designating the matter as Matter Under Review ("MUR") 8328. The FEC also provided Plaintiffs' counsel with a document entitled "Description of Preliminary Procedures for Processing Complaints Filed with the Federal Election Commission."

49. Also on October 17, 2025, the FEC notified NPR of the administrative complaint and requested a response.

50. On November 15, 2024, NPR's counsel responded to the administrative complaint.

51. On January 31, 2025, the FEC Office of General Counsel issued a four-page Enforcement Priority System Dismissal Report (the "EPS Dismissal Report"). In the EPS Dismissal Report, the Office of General Counsel recommended that the Commission dismiss the administrative complaint "consistent with the [FEC's] prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources." Additionally, the Office of General Counsel rated the matter "low priority for [FEC] action" and noted, in passing, that the press exemption was apparently applicable. The EPS Dismissal Report referred to the FEC's previous findings, in MUR 7230 from 2017, which pertained to the 2016 Presidential election, that NPR "is not owned or operated by a political party, political committee, or candidate . ." In dismissing Plaintiffs' administrative complaint, the FEC relied on its eight-year-old findings relative to a separate matter, MUR 7230, instead of focusing on and credibly assessing the specific facts and allegations raised in MUR 8328. After all, the allegations concerning NPR's conduct during the

2024 election cycle materially differed from those presented in MUR 7230.

52. On February 24, 2025, the FEC decided, on a 4-0 vote, to dismiss the administrative complaint and to close the FEC's file 30 days after the certification of the FEC's vote to dismiss the matter.

53. On March 20, 2025, the FEC's Deputy Secretary certified the February 24, 2025 decision.

54. On April 21, 2025, the FEC closed its file and sent Plaintiffs' counsel a letter informing them of this decision. Accompanying the April 21, 2025 letter was a copy of the January 31, 2025 EPS Dismissal Report.

55. On May 8, 2025, the FEC General Counsel's office sent Plaintiffs' counsel a copy of an April 28, 2025 "Statement of Reasons of Vice Chairman James E. "Trey" Trainor, III and Commissioner Allen J. Dickerson," providing their views regarding the administrative complaint. This brief Statement of Reasons, like the Office of General Counsel's EPS Dismissal Report, did not adequately address the particular facts and allegations of MUR 8328; instead, it expounded on these Commissioners' opinions about the First Amendment's broad applicability to press activity.

56. Plaintiffs have been aggrieved by the FEC's dismissal of the administrative complaint.

CAUSE OF ACTION

FECA- Dismissal of Administrative Complaint Contrary to Law (52 U.S.C. § 30109(a)(8)(A))

57. Plaintiffs reallege and incorporate by this reference all preceding paragraphs as if

fully set forth herein.

58. In response to the administrative complaint, the FEC, on April 21, 2025, notified Plaintiffs of the decision to dismiss the matter, thus triggering the sixty (60) day time period in which to file this action.

59. As the foregoing paragraphs have made clear, there was "reason to believe" that NPR violated FECA and FEC regulations by making and failing to report excessive and prohibited in-kind corporate contributions to the 2024 Democratic Presidential nominee, through its one-sided coverage of the 2024 Presidential candidates, which amounted to express advocacy to support the election of Joe Biden and then Kamala Harris.

60. The FEC's decision to dismiss the administrative complaint was arbitrary, capricious, and contrary to law. Neither the FEC's EPS Dismissal Report nor the FEC Commissioners' Statement of Reasons indicate that the FEC even considered the USJF report or Berliner's evidence regarding NPR's political bias. The FEC staff should have considered the USJF report and Berliner's evidence, especially given Berliner's role as a longtime NPR insider and whistleblower whose allegations remain largely unaddressed by NPR or the FEC. Plaintiffs' administrative complaint credibly alleged that NPR made and failed to report excessive and prohibited in-kind corporate contributions to the Biden/Harris campaign, in violation of FECA and the Commission's regulations; and that, throughout the 2024 election cycle, NPR was controlled by members of the Democratic Party who, in close cooperation and consultation with the Biden/Harris campaign, consistently published media content that amounted to express advocacy for the Democratic presidential candidates-and therefore NPR's activities were not entitled to protection pursuant to FECA's press exemption.

61. Despite the credible allegations in Plaintiffs' administrative complaint that NPR had violated the Act, the FEC's Office of General Counsel recommended, and four Commissioners voted to approve, dismissal of the complaint, by relying primarily on a prior enforcement matter from eight years ago and without properly considering the particular facts and allegations made in MUR 8328.

62. The Statement of Reasons later issued by Commissioners Dickerson and Trainor, likewise, offered little reasoning to support the FEC's vote to dismiss the credible and detailed allegations set forth in Plaintiffs' administrative complaint aside from emphasizing more generally that press outlets are protected by the First Amendment.

63. While Plaintiffs do not dispute this assertion, the Statement of Reasons issued by Commissioners Dickerson and Trainor offers a position contrary to law, insofar as it reveals that effectively no amount of bias or entanglement with a political party could cause a media organization to lose its press exemption.

64. The Commission's cursory treatment and dismissal of Plaintiffs' administrative complaint, both in the EPS Dismissal Report and in the two Commissioners' Statement of Reasons, did not meaningfully address the specific factual allegations presented in MUR 8328, in contravention of the agency's clear duty to enforce the Act pursuant to 52 U.S.C. § 30109. See *Campaign Legal Ctr. v. 45 Committee, Inc.*, 118 F.4th 378, 391 (D.C. Cir. 2024). Dismissal of Plaintiffs' administrative complaint was therefore arbitrary, capricious, and contrary to law.

65. The FEC's dismissal of the administrative complaint has caused Plaintiffs and the public at large to be aggrieved by denying them campaign-finance disclosure information required pursuant to FECA, including the sources of contributions and expenditures made for the

purpose of influencing federal elections.

REQUESTED RELIEF

WHEREFORE, Plaintiffs, by their undersigned counsel, respectfully request that the Court grant the following relief:

- 1) declare that the FEC's dismissal of the administrative complaint was arbitrary, capricious, and contrary to law pursuant to 52 U.S.C. § 30109(a)(8)(A);
- 2) order the FEC to conform with such declaration within 30 days, pursuant to 52 U.S.C. § 30109(a)(8)(C);
- 3) award Plaintiffs costs and attorneys' fees incurred in this action; and
- 4) grant such other and further relief as this Court deems just and proper.

Dated: May 22, 2026

Respectfully submitted,

/s/ Austin Graham
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CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2026 I electronically served a copy of the foregoing Amended Complaint and related attachments on all counsel of record via the Court's CM/ECF system.

/s/ Bradley W. Hertz

Bradley W. Hertz