UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BARBARA W. PALMER, Plaintiff, v. FEDERAL ELECTION COMMISSION, 1050 First Street, NE Washington, DC 20463 Defendant.	§ § § § § § § § § § §	Civ. No. 22-2876 (CRC)

PLAINTIFF'S RESPONSE TO GOVERNMENT'S MOTION TO DISMISS UNDER FRCP 12(b)(1)

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, Barbara W. Palmer, asks the Court to deny the Federal Election Commission's ("FEC") motion to dismiss under Federal Rule of Civil Procedure 12(b)(1), and for support of her claim that she has proper standing to bring this suit, would show as follows:

The FEC has failed to properly examine, investigate, and analyze Plaintiff's original complaint causing Plaintiff an informational injury sufficient to support standing in this case. *Campaign Legal Center v. FEC*, No. 21-5081 (D.D.C. 2022), *citing FEC v. Akins*, 524 U.S. 11 (1998). In the alternative, should the FEC be claiming that it has addressed the issues and applied the law, Plaintiff would show that the FEC has acted in an unreasonable, arbitrary and capricious manner, failed to properly apply both statutory law and applicable United States Constitutional protections, and failed in its duties to provide agency services as assigned to it by the United States Executive Branch and the United States Congress.

By combining Plaintiff's original FEC complaint with a second unrelated FEC complaint under the same opinion letter and issuing its opinion on these combined complaints, the FEC shuffled the facts of those two complaints, causing confusion as to the issues and law to be applied to Plaintiff's complaint. The FEC failed to address the main issues of Plaintiff's original complaint. Further, the FEC failed to properly assess the novelty of the issue presented or the nature of the threat posed to the electoral system.

INTRODUCTION & AGENCY PROCEEDINGS

The Federal Election Campaign Act of 1971 ("FECA") permits any person to file an administrative complaint with the Commission alleging a violation of the Act. *52 U.S.C. Sec. 30109(a)(1)*; *see also 11 C.F.R. Sec. 111.4*.

On November 7, 2021, Plaintiff filed an administrative complaint with the Commission, which was designated Matter Under Review (MUR") 7946.

The primary compliant centered around the lack of disclosure or audit of transactions involving a novel public-private partnership formed between the United States Elections Assistance Commission ("EAC") and a not-for-profit entity known as the Center for Tech and Civic Life ("CTCL"). This appears to be the first time that the EAC has used this type of contractual arrangement. The funding was disclosed on the EAC's website and annual reports as provided through federal taxpayer funding under the CARES Act. The amount was significant, about $400 million.

The original complaint provided information, publicly available, showing that the EAC had contracted out its agency functions to seek and review applications for grants of federally provided funds to state governmental entities. The EAC annual report indicated that the EAC had hired one new EAC employee to handle the COVID-19 grant workload. The EAC was

originally formed as a non-rule making, executive branch agency under the Help America Vote Act ("HAVA") in 2002, and it was funded an original amount to distribute to state election offices to improve voting processes in federal elections. In March 2020, Congress passed the CARES act, which provided new funding to the EAC, to be disbursed as assistance to state election offices because of added costs of federal elections due to the COVID-19 pandemic.

As of the original complaint filing in November 2021, it appeared that approximately $400 million dollars in taxpayer funded aid, approved by Congress through the CARES Act of March 2020, had passed through the CTCL, and that the CTCL has been paid some undisclosed amount for its services to process both state and local grant requests. The Plaintiff's FEC complaint also provided information to show that the EAC had also contracted, outside of its enabling statute, with CTCL to provide cybersecurity training to state and local election officials.

Plaintiff supplemented her complaint on January 3, 2022. At that time, Plaintiff provided a copy of the Form 990, filed by the CTCL, which had been made publicly available. The CTCL income tax return failed to show any government payment for services rendered by the CTCL to the EAC, such a payment would trigger a taxable event as business income to any §501(1)(c)(3) organization.

Also, on the CTCL 990 return, page 8, the CTCL indicates that it paid a $250,00 fee to a second for-profit company for COVID-19 election consulting. This disclosure makes it highly probably that the CTCL sub-contracted its contractual obligations to EAC to a third-party vendor.

This additional information opened a second source for the $400 million funding that was provided to state and local governments. That source, as shown on the CTCL Form 990, was private donations by a hand-full of private donor(s) and treated as nontaxable income to the

CTCL. Another layer between the federal agency distributing the funds and the state or local election office receiving the funds that adds to the risk of corruption in the process.

Plaintiff's original FEC complaint did not include a complainant against any of the individual donors to the CTCL. One individual donor purportedly provided most of the CTCL donations that were purportedly passed through to both state and local election offices. In its opinion letter, FEC addressed two combined MUR complaints. That additional complaint, not from Plaintiff, included that individual donor as a respondent. Plaintiff does not question that donor's motivations or intent in giving such a significant, overly generous gift to the CTCL, except to point out that such a donation could be tax deductible to the individual if, in fact, CTCL has a determination letter from the Internal Revenue Service that grants it §501(c)(3) status. Clearly this issue is outside of the FEC's domain.

In addition to seeking information about the actual source of the funds, private or public, there is a question as to the actual use of the funds, particularly if those funds were provided by the United States government. The FEC never investigated or addressed this issue in its opinion letter.

According to the EAC, the $400 million was to be used by the individual state governments to purchase personal protective equipment ("PPE"), or protective equipment for poll/election workers to guard them against infection by the COVID-19 virus as a result of the wide spread of the virus across the United States during the 2020 federal election cycle. Considering the amount of the funds involved, this begs the question as to whether or not the funds were used only for PPE or for other items, such as ballot drop boxes, election's supplies to meet higher than normal mail in ballots supply needs, or other non-PPE items. Any state receiving EAC grant funds executes a contractual agreement between the State and the EAC,

including limitations on the use of the funds and statements as to legal obligations of the state employee to refrain from improper federal campaign activities. State and local employees must also follow federal law and the provisions of the contract with the federal agency. Plaintiff has no way of discovering if taxpayer funds were used by state or local election offices to assist those offices in violation of either federal or state election laws, under the guise of the COVID-19 "emergency".

There is no indication that any agency of the US government has audited the use of the funds at the State or local level to ensure compliance with EAC contracts and federal election laws. There is no publicly available information as to the actual contractual arrangements between the EAC and CTCL. At least one state, Texas, shows that all of the 2020 CARES Act funding came as a result of the EAC contractual arrangement, and there is no official indication that the State of Texas dealt with CTCL. *See,* https://www.sos.state.tx.us/elections/funds/index.shtml. (Last checked January 31, 2023). There is no indication that Texas state election employees knew that they were dealing directly or indirectly with a federal contractor or that the federal contractor followed the provisions of the EAC/state contract.

The gravamen of the original FEC complaint was that the EAC formed a public partnership that violated provisions the FECA, BCRA, and Federal Election Commission regulations as codified under the United States Code of Federal Regulations (C.F.R.) by making illegal and prohibited contributions to political candidates and campaigns. *52 U.S.C. § 30119; 52 U.S.C. § 30122*. The FEC only mentioned the EAC in a footnote to its cover letter, which stated that it had determined that the EAC was not a proper respondent to the complaint. There was no analysis of the contractual arrangements between EAC and CTCL.

Federal law prohibits any federal contractor, who is entered into any contract with the United States or any department or agency thereof, for the rendition of services, to make, either directly or indirectly, any contribution or expenditure of money or other thing of value, or to promise expressly or impliedly to make any such contribution or expenditure to any political party, committee, or candidate for Federal office or to any person for any political purpose or use. *52 U.S.C. § 30119, 11 C.F.R. §115.2.* Plaintiff's complaint requested review of the transactions involved between the EAC and the CTCL for their participation in a likely *quid pro quo* scheme. It was requested that an audit look at the actual cash flows and determine if the EAC had properly reviewed information and followed appropriate contracting rules, keeping federal elections secure from ghost voters and ballot box stuffing by any means. The complaint requested FEC to determine if financially powerful individuals caused there to be contributed excessive amounts of political contributions in the name of a controlled entity in violation of federal election laws. *52 U.S.C. §30122*. Such actions interfere with the federal government's ability and authority to combat corruption and compromise the democratic process by allowing a federal agency to favor some participants in that process over others. Since the time the original FEC complaint was filed, the major donor has publicly acknowledged that the United States Federal Bureau of Investigation and, possibly other federal personnel or agencies, were in contact with this donor and employees at his company. The contacts by these federal law enforcement agencies related to, among other things, censoring of election related speech on a prominent social media platform, before, during and after the federal election in November 2020.

Plaintiff's original complaint requested information be disclosed as to the sources and uses of funds connected to the funding of multiple state and local election offices during the 2020 general federal election cycle. Plaintiff filed the instant case in a timely manner and seeks

additional information and judicial review of the opinion and any determinations by the FEC regarding her original complaint.

ARGUMENT

I. Plaintiff Has Standing and this Court has Jurisdiction to Hear Her Suit.

A. Plaintiff has standing to seek additional information that is required to be disclosed to the public.

Plaintiff bears the burden of proving, by a preponderance of the evidence, that this Court has subject-matter jurisdiction over her request for judicial review. *Campaign Legal Center v FEC*, Case No. 20-cv-00730, (D.D.C., 12/30/2021), *citing Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992). To overcome the FEC's Rule 12(b)(1) motion to dismiss, Plaintiff can establish standing by demonstrating a denial of access to information. *Id.*, citing *Campaign Legal Ctr*., 952 F.3d at 3561.

Administrative complaints filed with the FEC are credible where they present "specific evidence" of the violations alleged. *Citizens for Percy, '84 v. FEC*, No. 84-cv-2653m 1984 WL 6601, at *3 (D.D.C. Nov. 19, 1984). Plaintiff's FEC complaint more than adequately demonstrated that there was a strong appearance of fraud through the first-time use of a purported not-for-profit §501(c)(3) organization, as a federal contractor, to handle large sums of federal (or private) grant funds being used to fund federal election related activities at the state (and local) level. A significant portion of those funds being disbursed directly to the election offices and potentially by-passing any fail-safe check points in, and compliance with, the detailed and rigorous rule-oriented processes as set out in the *Federal Election Campaign Act of 1971* ("FECA"), as amended by the *Bipartisan Campaign Reform Act of 2002* (BCRA) and supplemented by *Help America Vote Act* ("HAVA"). It now also appears that there may have

been adjustments, made by someone after the transactions occurred, to publicly disclosed information by a federal agency, the EAC, to change the source of the funds from federal taxpayers' funds, handled by CTCL, to private charitable organization funds, donated to CTCL and handled by a third-party vendor to CTCL. This is significant, and needs further, investigation.

Plaintiff's administrative complaint provided specific evidence indicating a conflict in the source of a significant amount of cash funds that were distributed to various state and local election offices during the 2020 federal election cycle. Plaintiff has no access to the information of a private corporation. Further, Plaintiff is restricted from access to the civil courts for actions against the named respondents by the Congressional grant of jurisdiction to the FEC for all matters related to violations of federal election law. *52 U.S.C. §§ 30106, 30107.* It is unclear if the FEC sought any information past one letter to CTCL, and it appears that the FEC never researched or questioned the EAC regarding its use of an outside contractor, or the potential third-party contractor, hired by CTCL, that is a for-profit corporation.

The FEC opinion, as issued, has:

1) Determined any § 501(c)(3) can contract with any state or local government election office to provide any funds or services to that state or local election office, including funding any supplies, personnel training, or cybersecurity needs. Even if those activities violate federal election law or cause infringement of the constitutional guaranteed rights of United States citizens to vote in federal elections. FEC will not hold those organizations auditable or accountable by identifying them as a federal vendor, subject to federal election laws.

2) Determined that any federal agency may use federal funds to engage in federal election related activities, as long as those activities are labeled "*Get Out the Vote*" and characterized as helpful, even if such activities have an extraordinarily high potential to introduce fraudulent schemes and corruption into the federal election system.

The FEC appears to reason that it does not have the talent, the time or the resources to deal with its assigned agency duties.

The combined FECA, BCRA, and HAVA provisions at issue in this case prevent circumvention of the FECA's core mandates, including its contribution limits and comprehensive disclosure regime. Candidate contribution limits effectuate the "Act's primary purpose to limit the actuality and appearance of corruption resulting from large individual financial contributions." *Buckley v. Valeo*, 424 U.S. 1, 26 (1976). Our system of representative democracy is undermined when large contributions, soft or dark money funded, in support of candidates or campaigns, are introduced into the cash flows of the election system via "independent" entities operating outside of the Act's limits, prohibitions, and disclosure requirements. *Id* 15 26-27. The issues and evidence presented in Plaintiff's original FEC complaint require the agency to thoroughly investigate and disclose all information to the public regarding the sources and uses of funds related to transactions between CTCL, the EAC, and the significant grants that went to state and local governments during the 2020 federal election cycle.

Plaintiff is entitled to disclosure of all the information that relates to the CTCL/EAC transactions with all State and local election offices as the funds were issued to support a federal election.

B. Plaintiff has standing to seek judicial review of a final agency ruling under general federal question jurisdiction.

After combining another MUR number, convoluting the facts and respondents of the two complaints, and refusing to address the issues of this Plaintiff's complaint, the FEC now wants sympathy because this congressionally empowered and funded federal agency, that has put four government paid attorneys on this case, doesn't have time or money to deal with this problem that is affecting elections for federal officers. Plaintiff asserts that FEC has offered a plethora of excuses so that FEC can delay this matter.

Delay in addressing the issues presented herein will continue to affect federal elections in significant ways. There is a high probability that a delay will cause conflict with federal statutory time constraints on the next federal election cycle, as well as causing multiple problems for candidates and campaigns for federal office regarding campaign financing issues.

Plaintiff seeks judicial review of a federal agency's final determination. Denial of review in this Court will foreclose all judicial review of the FEC's determination on Plaintiff's original complaint. Therefore, this Court's review may be predicated on the general federal question jurisdiction statute, *28 U.S.C. § 1331*. *Telecommunications Research and Action Center v. FCC*, 750 F.2d 70 (D.C. Cir. 1984).

Plaintiff is entitled to relief where the undisputed facts show that the FEC has acted "contrary to law". *52 U.S.C. 30109(a)(8)(c).* While the FECA "does not require that an [enforcement action] be completed within a specific time period," *Democratic Senatorial Campaign Comm. v. FEC*, No. 95-cv-0349, 1996 WL 34301203, at *1 (D.D.C. Apr. 17, 1996)("DSCC"), it does impose "an obligation to investigate complaints expeditiously, " *Id*. at *4, *See also, Common Case v. FEC*, 489 F. Supp. 738, 744 (D.D.C. 1980)("Where the issue before the Court is whether the agency's failure to act is contrary to law, the Court must

determine whether the commission has acted "expeditiously."). In determining whether the FEC is acting "expeditiously," this Court may look to the credibility of the allegation, the nature of the threat posed, the resources available to the agency, and the information available to it, as well as the novelty of the issues involved." *Common Cause* 489 F. Supp. at 744. In addition, the Court may consider the factors outlined in *Telecomm. Research & Action Ctr. v. F.C.C.*, 750 F.2d 70 (D.C. Cir. 1984)

(1) The time agencies take to make decisions must be governed by a rule of reason;

(2) Where Congress has provided a timetable or other indication of the speed with which it expects the agency to proceed in the enabling statute, that statutory scheme may supply content for the rule of reason;

(3) Delays that might be reasonable in the sphere of economic regulation are less tolerable when human health and welfare are at stake;

(4) The court should consider the effect of expediting delayed action on agency activities of a higher or competing priority

(5) The court should also take into account the nature and extent of the interest prejudiced by delay; and

(6) The court need not find an impropriety lurking behind agency lassitude to hold that agency action is unreasonably delayed. *Telecomm. Research & Action Ctr. v. F.C.C.*, 750 F.2d at 80. Although the FEC's decision whether or not to investigate "is entitled to considerable deference, the failure to act in making such a determination is not." DSCC, 1996 WL34301203, at *4.

If this Court is satisfied that no further inquiry into the facts is required by the FEC, then the Court can conduct a judicial review of the FEC's opinion letter and its determinations

under §1331 jurisdictions, make findings, or issue such orders as the Court deems necessary to mandate that FEC perform its function.

C. The FEC's Failure to Properly Act on Plaintiff's Administrative Complaint Poses a Substantial and Ongoing Threat to the Electoral System.

The United States shall guarantee to every State in this Union a republican form of government. U.S. Const. art. IV, Section 4. Any States' control in the election process is subject to the protections of the fundamental rights of individuals and cannot conflict with specific and applicable provisions of the United States Constitution. *Twining v. State of New Jersey*, 211 U.S. 78 (1908)(discussing application of the Fourteenth Amendment to citizens' rights under Amend. V, U.S. Const.). "When the State violates a fundamental right of a citizen of the United States, the court(s) will interfere,… and the laws and actions of the State come under the prohibition of the Fourteenth Amendment when (it) infringe(s) a fundamental rights . *Id*. at 85, citing, *Ballard v. Hunter*, 204 U.S. 262. The right to vote for national officers is just such a fundamental right guaranteed by the privileges and immunity clause to individuals holding national citizenship. *Oregon v. Mitchell*, 400 U.S. 112, 149 (1970), citing *Ex parte Yarbrough*, 110 U.S. 651; *In re Quarles*, 158 U.S. 532, 534; *Twining v. New Jersey*, 211 U.S. 78, 97; *Burroughs v. United States*, 290 U.S. 534; *United States v. Classic*, 313 U.S. 299, 315. "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States". *Amend. XIV, Section 1 U.S. Const*. The Privileges and Immunities Clause is considered a primary source of substantive protection for United States citizens voting rights.

The United States President and Vice President are selected through the framework of the Electoral College. U.S. Const. amend XII. States have the primary authority over election administration of this process to selection of Electors from the States; commonly referred to as "times, places, and manner of holding elections". *U.S. Const. §4, Art. I.*

A United States citizens' right to vote is based upon the Constitution and not upon state law. *Ex parte Yarbrough*, 110 U.S. 651 (1884). A government, "whose essential character is republican, whose executive head and legislative body are both elective, whose most numerous and powerful branch of the legislature is elected by the people directly" must have the power by appropriate laws to secure that election from the influence of violence, of corruption, and of fraud." *Id.* at 657. To be more than "a mere aggregation of delegated agents of other States and governments, each of which is superior to the general government", the federal government must have the power to protect the elections on which its existence depends. *Id.* at 658.

The FEC's failure to investigate and seek enforcement of federal laws has allowed federal elections to be corrupted during the 2020 election cycle. The control for selecting the chief executives of the United States now rests with small un-elected groups, ostensibly operating as §501(c)(3) charity groups, controlled by an even smaller groups of individuals, non-government employees, and for-profit vendors, who may or may not be United States citizens or residing in the United States. Control of United States federal elections has been vested in un-elected individuals, that are far removed from government oversight or audit, to control, not just the day-to-day training of local level election staff, but the control, by non-governmental employees, of necessary cybersecurity for machines connected to the world-wide internet web, from attack by foreign actors.

The FEC, through its decision, is suggesting that it either does not care, or believes that somehow a series of events that spawned hundreds of federal election related lawsuits across the U.S. to be filed after November 3, 2020 was a one-time fluke and has no chance of happening again. The FEC is wrong.

The FEC has the jurisdiction, the authority, and the duty to investigation, report, and move forward any investigation and litigation necessary to keep the problems of the 2020 election cycle from repeating again.

1. Congress has delegated the authority and responsibility to investigate and litigate issues related to federal elections to the Federal Election Commission, and thereby protect the national election processes.

The United States is governed under enumerated powers as stated in the U.S Constitution and its amendments. The balance of governmental functions are carried out locally and at the state level. A major change came with World War II, when the federal government took on extraordinary powers to coordinate the nation's fighting of the war. These powers were exercised by executive branch agencies, created by Congress, and overseen by the U.S. President. The federal government never really demobilized after World War II, creating the large and powerful central government that has characterized modern U.S. politics. Outside of the military, almost all the growth in government has been the growth of administrative agencies, like the FEC.

In its Motion to Dismiss, the FEC admits that it has "exclusive jurisdiction" to administer, interpret, and civilly enforce the FECA. *See generally* 52 U.S.C. §§ 30106, 30107. The FEC's motion goes on to state:

> "Congress authorized the Commission to "**formulate policy**" with respect to FECA, *id.* § 30106(b)(1); "to make, amend, and repeal such rules . . . as are necessary to carry out the provisions of [FECA]," *id.* §§ 30107(a)(8), 30111(a)(8); and to investigate possible violations of the Act, *id.* § 30109(a)(1)-(2). The Commission has **exclusive jurisdiction to initiate civil enforcement actions** for violations of the Act in the United States district courts. *Id.* §§ 30106(b)(1), 30109(a)(6)."

The EAC, on the other hand, is not a rule making agency. The EAC's enabling statute limits its power to act mainly to a clerical capacity for processing grant applications and

disbursement of funds to state election offices. As explained in Plaintiff's original complaint to the FEC, the EAC went far beyond its powers during the 2020 election cycle.

Federal agencies must be established by Congress. Congress starts agencies and expands them to deal with public relations problems. Congress passed the Federal Election Campaign Act in 1971 ("FECA") with the aim of "remedying any actual ***or perceived*** (emphasis added) corruption of the political process." *FEC v. Akins*, 524 U.S. 11, 15 (1998). To further this goal, the Act uses three (3) primary mechanisms: 1) contribution limits; 2) source restrictions; and 3) disclosure requirements.

Federal campaign finance laws prohibit contributions by government contractors. *52 U.S.C. § 30119, 11 C.F.R. §115.2*. This is a source restriction that the EAC and CTCL has worked their way around using a multi-step process. The FEC needs to thoroughly investigate this matter. The structure of the rules, as a whole, is designed to "prevent attempts to circumvent the Act through prearranged or coordinated, expenditures amounting to camouflaged contributions. *Buckley v. Valeo*, 424 U.S. 1, 47 (1976)

This prohibition restricts federal contractors from making any contribution "to any political party, committee, or candidate for public office. The central restriction is thus a prohibition on contributions to candidates, but directly related to that ban on candidate contributions are the prohibitions on contributing to political parties and to committee related to candidates. This prohibition acts as a guard to prevent contributors from dodging the ban on candidate contributions by giving to groups that could coordinate with the candidate. *Wagner v. Federal Election Commission*, 901 F. Supp. 2d 101(D.D.C. 2012).

A ban on political contributions satisfies the First Amendment only if it is "closely drawn to match a sufficiently important interest. *See, Citizens United* v. FEC, 558 U.S. 210 (2010)(The Government may not prohibit independent and indirect corporate expenditures on political speech). In *Wagner,* the Government offered two important interests to justify the constructor restriction. Although *Wagner* involved individual employees, the principles are the same here, and the reasoning is applicable as well. The first of the two important interests is a Government interest in ensuring that federal employment does "not depend on political performance," that vendors "enforce the law and execute the programs of the Government without bias or favoritism for or against any political party or group or the members thereof," and that vendors are "free from pressure and from express or tacit invitation to vote in a certain way or perform political chores in order to curry favor with their superiors rather than to act out their own beliefs." *Civil Service Commission v. National Ass'n of Letter Carriers, AFL–CIO***,** 413 U.S. 548, 564 – 66 (1973).

The second interest is to avoid *quid pro quo* corruption or the appearance thereof. *Buckley v. Valeo*, 424 U.S. 1, 25-26 (1976). There is no doubt that, as it pertains to past and the present election cycle, there is serious concern over the existence of quid pro quo corruption in federal elections.

Working around the statutory system appears to be as simple as calling a not-for-profit organization a §501(c)(3) instead of a §501(c)(4), or one of the dozen or so other types of §501(c) designations for not-for-profit entities, and then funneling the money through it to state or local election staff that execute the federal election procedures. Procedures such as use of mail-in ballots or signature verification, and those local government employees who count the votes.

Federal campaign finance laws prohibit contributions in the name of another person. 52 U.S.C. § 30122. The statute reads as follows:

> "No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person."

The statute prohibits the use of a straw donor to make contributions. A straw donor contribution is an indirect contribution from A, through B, to the campaign. It occurs when A solicits B to transmit funds to a campaign in B's name, subject to A's promise to advance or reimburse the funds to B. Although employing different methods, false name and straw donor schemes both facilitate attempts by an individual (or campaign) to thwart disclosure requirements, as well as contribution limits. *U.S. v. O'Donnell*, 608 F.3d 546 (9th Cir. 2010), cert. denied, 563 U.S. 929 (2011). *See also*, *United States v. Boender*, 649 F.3d 650 (7th Cir 2011)(A specific quid pro quo of money is sufficient, but not necessary, to violate 18 U.S.C. §666(a)(1)(B), the parallel provision criminalizing the solicitation and acceptance of bribes and rewards).

The FEC has wholly failed to address in its ruling violations of federal election statutes, cited above, as those code sections relate to the CTCL and its association as a federal contractor, dealing directly with state and local election officials and staff.

2. Significant flaws in multiple states election procedure are causing violations of federal election laws during federal elections, and these violations are going to continue until addressed by the FEC or the federal court system.

Plaintiff acknowledges that there is an argument that the 2020 election cycle was an anomaly, that the "stuff the ballot box" with mail-in ballots and use of public drop boxes was a result of a one-time nation-wide pandemic, and that measures had to be taken and federal money had to be allocated, to ensure public confidence in the outcome of the 2020 general elections. In

other words, the original intentions of actions taken around the spring of 2020 may have been taken to solve the problems occurring at that moment. Plaintiff is not attempting to "Monday morning quarterback" the 2020 election.

Plaintiff asserts that there were federal election law violations during the 2020 general elections, particularly in selected states, and those problems will reoccur in the 2024 federal election cycle.

Using the COVID-19 pandemic as a justification, state and local government officials, particularly in Georgia, Michigan, Pennsylvania, and Wisconsin, usurped their legislatures' authority and unconstitutionally revised their state's election statutes. They accomplished these statutory revisions through executive fiat or friendly lawsuits, thereby weakening ballot integrity. *See*, ***State of Texas v. The Commonwealth of Pennsylvania, State of Georgia, State of Michigan, State of Wisconsin***, "Motion for Leave to File Bill of Complaint," December 7, 2020. https://www.supremecourt.gov/DocketPDF/22/22O155/162953/20201207234611533_TX-v-State-Motion-2020-12-07%20FINAL.pdf pg. 1.

According to the Texas complaint, which the Supreme Court declined to hear, the goal of this strategy was to flood "battleground" states "with millions of ballots to be sent through the mails, or placed in drop boxes, with little or no chain of custody." At the same time, state and local government officials also sought to "weaken the strongest security measures protecting the integrity of the vote signature verification and witness requirements." *Id.*

The volume of materials available that address the various state actions taken to alter their respective federal elections during the 2020 federal election cycle is too voluminous to include here. This Response addresses a motion to dismiss filed by the FEC. What can be summarized here is that state and local election employees, along with "helpful" groups of

contractors, are working to normalize that the States and counties can have dirty voter rolls, filled with people that are illegal voters, and then employees, operating under the color of state law, can mail ballots to these ineligible voters, maybe more than once, and then those same state/local government employees can arbitrarily reduce the scrutiny on election ballot signatures (which is what they did in Nevada in 2020 and they did it again in 2022), so that as long as a piece of paper that the local government election office deems to be a "ballot", not a vote, not a person, but just a piece of paper, hits a box, that piece of paper is going to be counted toward electing a federal officer. The FEC already has authority and ability to correct these problems and right the ship of State..

In order to vote in state conducted elections for U.S. President an individual must meet the following qualifications: 1) Be at least 18 years old; 2) Be a United States citizen; 2) Be registered to vote. It is incumbent upon the FEC to work diligently to prevent any action, by state election officers, federal agencies, or not-for-profit organizations from introducing fraud and corruption into federal elections. The FEC has a duty to enforce the federal election laws and the uphold the integrity of the United States and its Constitution.

CONCLUSION

Plaintiff has standing to bring this complaint under either of two theories, stated above and supported by law. Plaintiff, therefore, respectfully requests this Court to deny the Federal Election Commission's Motion to Dismiss, and order the agency to answer. Further, Plaintiff requests this Court to set the matter down for a pre-trial scheduling conference, prior to trial on the merits.

Respectfully Submitted,

/s/ Barbara W. Palmer

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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of February 2023, a copy of the foregoingNotice of Appearance, was delivered to case registered parties by the CM/ECF court system.

/s/ Barbara W. Palmer
Barbara W. Palmer