

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
CINCINNATI DIVISION**

NATIONAL REPUBLICAN SENATORIAL COMMITTEE, <i>et al.</i> ,)	
)	
Plaintiffs,)	Civ. No. 22-639 (DRC)
)	
v.)	
)	
FEDERAL ELECTION COMMISSION, <i>et al.</i> ,)	ANSWER
)	
Defendant.)	

DEFENDANT FEDERAL ELECTION COMMISSION’S ANSWER

Defendants Federal Election Commission (“FEC” or “Commission”), and Allen J. Dickerson, Dara Lindenbaum, Shana M. Broussard, Sean J. Cooksey, James E. Trainor III, and Ellen L. Weintraub, each in their official capacity as a Commissioner of the Federal Election Commission, submit this Answer to the Complaint for Declaratory and Injunctive Relief filed by plaintiffs National Republican Senatorial Committee (“NRSC”), National Republican Congressional Committee (“NRCC”), James David Vance, and Steven Joseph Chabot on November 4, 2022.¹ Any allegation not specifically responded to below is DENIED.

1. This paragraph contains plaintiffs’ legal conclusions, to which no response is required. The cited judicial opinions speak for themselves, and are the best evidence of their content, therefore no response is required. To the extent a response is required, ADMIT that plaintiffs are the national senatorial and congressional committees of the Republican Party and

¹ The Commission notes that the Complaint caption names Commissioner Dickerson as Chair and Commissioner Lindenbaum as Vice Chair. Those titles were correct at the time the Complaint was filed. Currently, Commissioner Lindenbaum serves as Chair and Commissioner Cooksey as Vice Chairman.

two of their 2022 general election nominees, but DENY that federal campaign finance laws severely restrict political party committees from associating with and advocating for their own candidates for federal office.

2. This paragraph contains plaintiffs' legal conclusions, to which no response is required. This paragraph characterizes the U.S. Constitution, statutes, regulations, and judicial precedent, which speak for themselves and are the best evidence of their contents, therefore no response is required. To the extent a response is required, DENY that federal campaign finance laws abridge the speech of political party committees or severely limit their spending.

3. This paragraph contains plaintiffs' legal conclusions, to which no response is required. This paragraph characterizes statutes and regulations, which speak for themselves and are the best evidence of their contents, therefore no response is required.

4. This paragraph contains plaintiffs' legal conclusions, to which no response is required. This paragraph characterizes a statute, which speaks for itself and is the best evidence of its contents, therefore no response is required.

5. This paragraph contains plaintiffs' legal conclusions, to which no response is required. This paragraph characterizes statutes and regulations, which speak for themselves and are the best evidence of their contents, therefore no response is required. To the extent a response is required, DENY that the cited laws and regulations constitute "selective speech rationing."

6. This paragraph contains plaintiffs' legal opinions and conclusions, to which no response is required. The cited online report speaks for itself, and is the best evidence of its contents, therefore no response is required. To the extent a response is required, DENY that

FECA's limits on coordinated party expenditures cause "substantial" "harm" to core First Amendment-protected activities of political parties and their candidates.

7. DENY.

8. This paragraph contains plaintiffs' legal conclusions and opinions, to which no response is required. The cited judicial opinion speaks for itself, and is the best evidence of its contents, therefore no response is required.

9. This paragraph contains plaintiffs' legal conclusions and opinions, to which no response is required. To the extent a response is required, DENY that *Federal Election Commission v. Colorado Republican Federal Campaign Committee*, 533 U.S. 431 (2001), was wrongly decided or has been undercut by later events, and DENY that the limits on coordinated party expenditures are unconstitutional.

10. Plaintiffs' description of its allegations in this proceeding requires no response. DENY that FECA's limits on political party coordinated expenditures should be held unconstitutional or that plaintiffs are entitled to injunctive relief.

11. ADMIT that 28 U.S.C. § 1331 provides federal question jurisdiction, that plaintiffs Vance and Chabot are entitled to invoke 52 U.S.C. § 30110 to any extent they possess Article III standing for claims that are not moot, and that the Court has personal jurisdiction over the Commission. DENY that any "question of the constitutionality of FECA's coordinated party expenditure limits" should be certified to the United States Court of Appeals for the Sixth Circuit prior to this Court first developing a record for appellate review by making findings of fact and determining whether plaintiffs' constitutional challenges are frivolous or involve settled legal questions. The remaining allegations in this paragraph are DENIED.

12. Without waiving any potential rights on appeal, ADMIT that this Court has ruled that venue is proper in the District Court for the Southern District of Ohio.

13. ADMIT that the NRSC is the Republican Party's senatorial campaign committee and that it makes contributions and expenditures to support the Party's nominees for the U.S. Senate. ADMIT that the FEC has determined that a congressional campaign committee like the NRSC is a type of national committee under 52 U.S.C. § 30101(14). The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

14. ADMIT that the NRCC is the Republican Party's congressional campaign committee and that it makes contributions and expenditures to support the Party's nominees for the U.S. House of Representatives. ADMIT that the Commission has determined that a congressional campaign committee like the NRCC is a type of national committee under 52 U.S.C. § 30101(14). The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

15. ADMIT that James David ("J.D.") Vance was the 2022 Republican nominee for the U.S. Senate in Ohio, and that coordinated party expenditures were reportedly made on his behalf. The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

16. ADMIT that when the complaint was filed Steven ("Steve") Joseph Chabot was the sitting U.S. Congressman and the 2022 Republican nominee for the U.S. House of Representatives from Ohio's First Congressional District, and that coordinated party expenditures were reportedly made on his behalf. DENY that plaintiff Chabot is currently a Member of Congress. The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

17. ADMIT.

18. ADMIT, except that Commissioner Dickerson no longer serves as Chair of the Commission.

19. ADMIT, except that Commissioner Lindenbaum now serves as Chair of the Commission.

20. ADMIT.

21. ADMIT. The Commission notes that Commissioner Cooksey now serves as Vice Chairman of the Commission.

22. ADMIT.

23. ADMIT.

24. This paragraph contains plaintiffs' legal conclusions, to which no response is required. To the extent a response is required, DENY that plaintiff Chabot is presently suffering any injuries in fact and presents any live claims. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

25. This paragraph contains plaintiffs' legal conclusions, to which no response is required. The cited judicial opinion speaks for itself, and is the best evidence of its contents, therefore no response is required.

26. This paragraph contains plaintiffs' legal conclusions, to which no response is required. The cited statutory provision speaks for itself, and is the best evidence of its contents, therefore no response is required. To the extent a response is required, DENY that the coordinated party expenditure limits injure plaintiffs.

27. This paragraph contains plaintiffs' legal conclusions, to which no response is required. The cited statutory provision speaks for itself, and is the best evidence of its contents,

therefore no response is required. To the extent a response is required, the Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph.

28. This paragraph contains plaintiffs' legal conclusions, to which no response is required. The cited statutory provision speaks for itself, and is the best evidence of its contents, therefore no response is required. To the extent a response is required, ADMIT that NRSC reported making the maximum permitted direct contribution to candidate Vance in the 2022 election cycle.

29. This paragraph contains plaintiffs' legal conclusions, to which no response is required. The cited statutory and regulatory provisions speak for themselves, and are the best evidence of their contents, therefore no response is required. To the extent a response is required, ADMIT that NRSC reported making coordinated expenditures in support of candidate Vance's campaign in the 2022 election cycle. According to FEC reports, NRSC received spending authorization from the Republican National Committee and the Ohio Republican Party, and it made a total of \$1,991,800 in coordinated party expenditures on behalf of Vance's general election campaign during the 2022 election cycle. With full spending authorization from those two entities, NRSC would have been permitted to make coordinated party expenditures up to a \$2,016,800 maximum combined limit. The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

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

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

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

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

34. This paragraph contains plaintiffs' legal conclusions, to which no response is required. The cited statutory provision speaks for itself, and is the best evidence of its contents, therefore no response is required. To the extent a response is required, ADMIT that NRCC reported making the maximum permitted direct contribution to candidate Chabot in the 2022 election cycle. The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

35. This paragraph contains plaintiffs' legal conclusions, to which no response is required. The cited statutory and regulatory provisions speak for themselves, and are the best evidence of their contents, therefore no response is required. To the extent a response is required, ADMIT that NRCC reported making coordinated expenditures in support of candidate Chabot's campaign in the 2022 election cycle. According to FEC reports, NRCC received spending authorization from the Republican National Committee and the Ohio Republican Party, and it made a total of \$103,000 in coordinated party expenditures on behalf of Chabot's general election campaign during the 2022 election cycle. With full spending authorization from those two entities, NRCC would have been permitted to make coordinated party expenditures up to a \$110,000 maximum combined limit. The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

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

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

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

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

40. DENY that plaintiffs are chilled from exercising their First Amendment rights by the statute challenged in this case. The Commission is otherwise without knowledge or information sufficient to admit or deny the allegations in this paragraph.

41. DENY that plaintiffs are experiencing a “chilling effect” because of the statute challenged in this case. The Commission is otherwise without knowledge or information sufficient to admit or deny the allegations in this paragraph.

42. DENY that plaintiff Vance is chilled from exercising his First Amendment rights by the statute challenged in this case. The Commission is otherwise without knowledge or information sufficient to admit or deny the allegations in this paragraph.

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

44. DENY that plaintiff Chabot is chilled from exercising his First Amendment rights by the statute challenged in this case. The Commission is otherwise without knowledge or information sufficient to admit or deny the allegations in this paragraph.

45. DENY.

46. This paragraph contains plaintiffs’ legal conclusions, to which no response is required.

47. ADMIT.

48. This paragraph contains plaintiffs' characterizations of a statute and a regulation, which speak for themselves and are the best evidence of their contents, therefore no response is required.

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50. This paragraph contains plaintiffs' characterizations of a statute and a regulation, which speak for themselves and are the best evidence of their contents, therefore no response is required.

51. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited legal precedent speaks for itself, and is the best evidence of its contents, therefore no response is required.

52. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited legal precedent speaks for itself, and is the best evidence of its contents, therefore no response is required.

53. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited legal precedent speaks for itself, and is the best evidence of its contents, therefore no response is required.

54. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited statute and legal precedent speak for themselves, and are the best evidence of their contents, therefore no response is required.

55. The cited statute and internet website speak for themselves, and are the best evidence of their contents, therefore no response is required. To the extent a response is required, ADMIT that the base limit on individual contributions to a federal candidate stood at \$2,900 per election for the 2021–2022 election cycle. The Commission notes that this limit is indexed for inflation and the limit for the 2023-2024 election cycle is \$3,300.

56. This paragraph characterizes the contents of a statute and regulation, which speak for themselves and are the best evidence of their contents, therefore no response is required.

57. This paragraph characterizes the contents of a regulation and judicial opinion, which speak for themselves and are the best evidence of their contents, therefore no response is required. To the extent a response is required, the Commission notes that the referenced contribution limit is indexed for inflation and the limit for the 2023-2024 election cycle is \$3,300.

58. This paragraph characterizes the contents of a statute and internet website, which speak for themselves and are the best evidence of their contents, therefore no further response is required. To the extent a response is required, ADMIT that during the 2021–2022 election cycle, the limit on individual contributions to the general operating accounts of the national party committees was \$36,500 per year, and that the limit on individual contributions to the general operating accounts of any state, district, and local party committee was \$10,000 per year. The Commission notes that the former contribution limit is indexed for inflation and the limit for the 2023-2024 election cycle is \$41,300.

59. This paragraph contains plaintiffs' legal conclusions, to which no response is required.

60. This paragraph characterizes the contents of a statute and judicial opinion, which speak for themselves and are the best evidence of their contents, therefore no response is required. To the extent a response is required, ADMIT that during the 2021–2022 election cycle, the limit on contributions by a party committee to a federal candidate was \$5,000, and a national party committee and its Senatorial campaign committee could contribute a combined total of \$51,200 to each U.S. Senate candidate in 2022. The Commission notes that the latter contribution limit is indexed for inflation and the limit for the 2024 election year is \$57,800.

61. This paragraph contains plaintiffs’ legal conclusions, which require no response. The cited statute and regulation speak for themselves, and are the best evidence of their contents, therefore no response is required.

62. The cited statute, regulation, and internet website speak for themselves, and are the best evidence of their contents, therefore no response is required. To the extent a response is required, ADMIT that in the 2022 election cycle, the coordinated party expenditure limits for House nominees were \$55,000 in states with more than one representative and \$109,900 in states with only one representative, and that the limits for Senate nominees ranged from a low of \$109,900 to a high of \$3,348,500, depending on the state’s voting-age population.

63. This paragraph contains plaintiffs’ legal conclusions, which require no response. The cited statute and regulation speak for themselves, and are the best evidence of their contents, therefore no response is required.

64. This paragraph characterizes the contents of a statute and regulation, which speak for themselves and are the best evidence of their contents, therefore no response is required.

65. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited statute and regulation speak for themselves, and are the best evidence of their contents, therefore no response is required.

66. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited regulation speaks for itself, and is the best evidence of its contents, therefore no response is required.

67. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited statute speaks for itself, and is the best evidence of its contents, therefore no response is required.

68. This paragraph contains plaintiffs' legal conclusions, which require no response. This paragraph characterizes the contents of a statute and regulation, which speak for themselves and are the best evidence of their contents, therefore no response is required.

69. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited judicial opinion and FEC advisory opinion speak for themselves, and are the best evidence of their contents, therefore no response is required. To the extent a response is required, DENY that all party spending has been presumed coordinated since the Supreme Court's decision in *Colorado Republican Federal Campaign Committee v. Federal Election Commission*, 518 U.S. 604 (1996).

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

71. The cited judicial opinions speak for themselves, and are the best evidence of their contents, therefore no response is required. To the extent a response is required, the

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

72. The cited judicial opinion speaks for itself, and is the best evidence of its contents, therefore no response is required. To the extent a response is required, the Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

73. This paragraph characterizes the contents of a statute and internet website, which speak for themselves and are the best evidence of their contents, therefore no response is required. To the extent a response is required, ADMIT that the annual limit on individual contributions to each of the referenced party segregated accounts was \$109,500 for the 2021-2022 election cycle. The Commission notes that this contribution limit is indexed for inflation and the limit for the 2023-2024 election cycle is \$123,900.

74. This paragraph characterizes the contents of a statute, which speaks for itself and is the best evidence of its contents, therefore no response is required.

75. This paragraph characterizes the contents of a statute and regulation, which speak for themselves and are the best evidence of their contents, therefore no response is required.

76. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited legislative statements and judicial opinion speak for themselves, and are the best evidence of their contents, therefore no response is required.

77. This paragraph characterizes the contents of a judicial opinion, which speaks for itself and is the best evidence of its contents, therefore no response is required.

78. This paragraph characterizes the contents of a judicial opinion, which speaks for itself and is the best evidence of its contents, therefore no response is required.

79. This paragraph characterizes the contents of a judicial opinion, which speaks for itself and is the best evidence of its contents, therefore no response is required.

80. This paragraph characterizes the contents of a judicial opinion, which speaks for itself and is the best evidence of its contents, therefore no response is required.

81. This paragraph characterizes the contents of a judicial opinion, which speaks for itself and is the best evidence of its contents, therefore no response is required.

82. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited law review article and judicial opinion speak for themselves, and are the best evidence of their contents, therefore no response is required. To the extent a response is required, DENY that the rationales underlying the majority's reasoning in *Federal Election Commission v. Colorado Republican Federal Campaign Committee*, 533 U.S. 431 (2001), have eroded. The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph. DENY the heading that appears immediately above the paragraph.

83. This paragraph contains plaintiffs' legal conclusions, which require no response.

84. This paragraph characterizes the contents of judicial opinions, which speak for themselves and are the best evidence of their contents, therefore no response is required.

85. This paragraph characterizes the contents of judicial opinions, which speak for themselves and are the best evidence of their contents, therefore no response is required.

86. This paragraph characterizes the contents of judicial opinions, which speak for themselves and are the best evidence of their contents, therefore no response is required.

87. This paragraph characterizes the contents of a judicial opinion, which speaks for itself and is the best evidence of its contents, therefore no response is required.

88. This paragraph characterizes the contents of judicial opinions, which speak for themselves and are the best evidence of their contents, therefore no response is required.

89. DENY.

90. The Commission incorporates by reference its responses to the allegations contained in each of the preceding paragraphs of plaintiffs' complaint. The heading above this paragraph is DENIED.

91. This paragraph contains plaintiffs' description of this lawsuit and legal conclusions, which require no response.

92. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited judicial opinion speaks for itself, and is the best evidence of its contents, therefore no response is required.

93. This paragraph contains plaintiffs' legal conclusions, which require no response. The cited judicial opinion speaks for itself and is the best evidence of its contents, therefore no response is required.

94-99. DENY.

100. The Commission incorporates by reference its responses to the allegations contained in each of the preceding paragraphs of plaintiffs' complaint. The heading above this paragraph is DENIED.

101. This paragraph contains plaintiffs' description of this lawsuit and legal conclusions, which require no response.

102-103. DENY.

PRAYER FOR RELIEF

Plaintiffs are not entitled to the relief requested in the “Requested Relief” portion of the complaint or to any other relief.

AFFIRMATIVE DEFENSES

The Court lacks subject-matter jurisdiction over a plaintiff’s claims because that plaintiff neither possesses standing nor presents any live claims, as required by U.S. Const. art. III, § 2, cl.

1.

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May 23, 2023

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2023, I served the foregoing pursuant to Fed. R. Civ. P. 5(b)(2)(E) on counsel of record, as a registered ECF user, through the Court's ECF system.

/s/ Harry J. Summers
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