

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

WISCONSIN FAMILY ACTION,)	
)	
Plaintiff,)	
)	
v.)	
)	
FEDERAL ELECTION COMMISSION,)	Civ. No. 21-C-1373 (WCG)
)	
Defendant.)	
)	

DEFENDANT FEDERAL ELECTION COMMISSION’S ANSWER

Defendant Federal Election Commission (“FEC” or “Commission”) submits this answer to the Complaint of plaintiff Wisconsin Family Action. Any allegation not specifically responded to below is DENIED.

1. This paragraph contains conclusions of law to which no response is required. To the extent a response is required, DENY that the FEC “require[s] the disclosure of contributions made for non-political purposes or for general issue advocacy” and that it has acted unlawfully or that plaintiff is entitled to the relief requested.

2. ADMIT that 28 U.S.C. § 1331 provides federal question jurisdiction in the district court and that 28 U.S.C. § 2201 and 2202 provide authority for injunctive and declaratory relief. DENY the remainder of this paragraph.

3. The Commission is without knowledge or information sufficient to admit or deny this paragraph.

4. ADMIT that WFA has obtained recognition as a non-profit corporation exempt from federal income taxation under I.R.C. § 501(c)(4). The Commission is without knowledge or information sufficient to admit or deny the remainder of this paragraph.

5. ADMIT.

6. ADMIT.

7. This paragraph quotes provisions of the Federal Election Campaign Act (“FECA”) codified at 52 U.S.C. § 30104(b)(3) and (c)(1), which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the statute contains the quoted text.

8. This paragraph quotes a provision of FECA codified at 52 U.S.C. § 30104(c)(2)(C), which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the statute contains the quoted text.

9. This paragraph quotes a provision of FECA codified at 52 U.S.C. § 30101(8)(A)(i) and characterizes the regulation 11 C.F.R. § 100.52(a), which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the statute contains the quoted text.

10. This paragraph contains conclusions of law and plaintiff’s characterizations of a judicial opinion, which speaks for itself, and so no response is required. The paragraph also contains assertions about what unspecified “regulated parties understood,” which the FEC is without knowledge or information sufficient to admit or deny. To the extent a response is required, DENY that *Buckley*’s interpretation of the phrase “for the purpose of influencing” in the context of expenditures applies to the definition of “contribution” in FECA.

11. This paragraph quotes an FEC regulation, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the FEC promulgated a regulation in 1980 that contained the text quoted in the first sentence of this paragraph. DENY that the quotation in the second sentence appears in the cited regulation and plaintiff's characterization of the regulation.

12. ADMIT that FECA authorizes the FEC to seek the described civil penalties through conciliation or in a de novo civil action in federal court. *See* 52 U.S.C. § 30109(a)(4)(A), (6)(A).

13. ADMIT that the described criminal penalties may be available for the described violations in an appropriate case.

14. This paragraph contains conclusions of law and plaintiff's characterizations of a judicial opinion, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that 11 C.F.R. § 109.10(e)(1)(vi) was vacated in *Citizens for Responsibility & Ethics in Wash. v. FEC*, 316 F. Supp. 3d 349 (D.D.C. 2018), *aff'd* 971 F.3d 340 (2020). DENY that the paragraph accurately summarizes the cited judicial opinion. To the extent that the title preceding this paragraph contains a factual allegation that the FEC has not given clear guidance, that allegation is DENIED.

15. The first sentence of this paragraph contains conclusions of law and plaintiff's characterizations of a judicial opinion, which speaks for itself, and so no response is required. ADMIT the second sentence of this paragraph.

16. ADMIT that the Institute for Free Speech filed the petition for rulemaking, which appears as Exhibit A to plaintiff's complaint, with the FEC on or about August 27, 2018. The

remainder of this paragraph contains plaintiff's characterizations of that publicly available petition, which speaks for itself, and so no response is required.

17. DENY.

18. ADMIT that on or about October 4, 2018, the FEC issued a press release entitled "Federal Election Commission, Guidance following U.S. District Court decision in *CREW v. FEC*, 316 F. Supp. 3d 349 (D.D.C. 2018)," which appears as Exhibit B to plaintiff's complaint. The remainder of this paragraph quotes portions of the guidance, which speaks for itself, and so no response is required.

19. This paragraph quotes portions of a judicial opinion, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the District of Columbia Circuit affirmed the district court's vacatur of the 11 C.F.R. § 109.10(e)(vi).

20. This paragraph contains plaintiff's characterizations of a publicly available press release, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the quoted language appears in Exhibit C.

21. This paragraph quotes publicly available information from the FEC website, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the website reproduced at Exhibit D contains the quoted text.

22. DENY.

23. The Commission is without knowledge or information sufficient to admit or deny this paragraph. DENY that Section 30104(c) or the FEC's interpretation of that provision has prevented plaintiff from making independent expenditures. To the extent that the title preceding this paragraph contains a factual allegation that the FEC has "chill[ed] Wisconsin Family Action's Speech and Associational Rights," that allegation is DENIED.

24. The Commission is without knowledge or information sufficient to admit or deny this paragraph.

25. DENY.

26. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent it makes a factual allegation about what “WFA fears,” except to DENY that any such fear would be objectively reasonable. DENY that 52 U.S.C. § 30104(c) requires plaintiff to “disclose all donors of more than \$200 in a calendar year should it make a single independent expenditure of more than \$250 in the same time period.”

27. The Commission is without knowledge or information sufficient to admit or deny this paragraph except to DENY that 52 U.S.C. § 30104(c) requires disclosure of all donors.

28. The Commission is without knowledge or information sufficient to admit or deny this paragraph except to DENY that 52 U.S.C. § 30104(c) requires disclosure of all donors. DENY the allegations in this paragraph to the extent it suggests that WFA could be subject to a direct, private cause of action asserting violations of 52 U.S.C. § 30104(c) absent a judicial finding that the FEC had acted “contrary to law” in either dismissing or failing to act on an administrative complaint filed against WFA. 52 U.S.C. § 30109(a)(8).

29. DENY the first sentence of this paragraph and that Section 30104(c) has prevented plaintiff from making independent expenditures or chills WFA’s political speech. The Commission is without knowledge or information sufficient to admit or deny the remainder of this paragraph.

30. This paragraph re-alleges and incorporates by reference the allegations contained in paragraphs 1-29 of plaintiff’s complaint, and the Commission therefore incorporates by reference its responses to those paragraphs.

31. DENY.

32. DENY.

33. DENY.

34. This paragraph re-alleges and incorporates by reference the allegations contained in paragraphs 1-33 of plaintiff's complaint, and the Commission therefore incorporates by reference its responses to those paragraphs.

35. This paragraph contains plaintiff's characterizations of the United States Constitution's purpose and application, to which no response is required.

36. ADMIT.

37. This paragraph contains plaintiff's characterizations of Article I, Section 4 of the Constitution and judicial opinions interpreting that provision, to which no response is required.

38. This paragraph quotes Article I, Section 4 of the Constitution, which speaks for itself. To the extent a response is required, ADMIT that the Section contains the quoted text.

39. This paragraph contains plaintiff's characterizations of Article I, Section 4 of the Constitution, to which no response is required.

40. This paragraph contains plaintiff's characterizations of Article I, Section 4 of the Constitution, to which no response is required. To the extent a response is required, DENY that 52 U.S.C. § 30104(c) is beyond the power of Congress, "abridge[s] political speech," or is otherwise unconstitutional.

41. DENY.

With regard to the requested relief section of the Complaint, DENY that plaintiff is entitled to the relief requested or to any other relief.

Respectfully submitted,

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