UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

REV. DAVID LEWICKI, VLADIMIR SHKLOVSKY Plaintiffs, v. FEDERAL ELECTION COMMISSION, 1050 First Street, NE Washington, DC 20463 Defendant.	Civ. No. 24-2505 (ABJ) PARTIAL MOTION TO DISMISS

FEDERAL ELECTION COMMISSION'S PARTIAL MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 12(b)(6) of the Federal Rules of Civil Procedure, the Federal Election Commission ("FEC") hereby moves for an order dismissing claim two of plaintiffs' complaint for failure to state a claim upon which relief can be granted. Plaintiffs allege that the controlling group of Commissioners' explanation of the dismissal of plaintiffs' administrative complaint applied an improper definition of "reason to believe," the standard against which plaintiffs' allegations were evaluated. However, claim two falls outside the scope of the permissible bases for judicial review defined by 52 U.S.C. § 30109(a)(8) because the reason to believe standard is inseparable from the analysis of the law and facts at issue in plaintiffs' administrative complaint, and cannot serve as a sufficient and independent basis for relief. A supporting memorandum and a proposed order accompany this motion.

Respectfully submitted,

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November 18, 2024

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

REV. DAVID LEWICKI VLADIMIR SHKLOVSKY, Plaintiffs, v. FEDERAL ELECTION COMMISSION, Defendant.	Civ. No. 24-2505 (ABJ) MEMORANDUM IN SUPPORT OF PARTIAL MOTION TO DISMISS

FEDERAL ELECTION COMMISSION'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ITS MOTION TO DISMISS

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Plaintiffs Rev. David Lewicki and Vladimir Shklovsky ("plaintiffs"), seek injunctive and declaratory relief against the Federal Election Commission ("Commission or "FEC"), challenging as arbitrary, capricious, an abuse of discretion, and contrary to law the dismissal by the FEC of their administrative complaint in Matter Under Review ("MUR") 8110. The complaint in the MUR alleged a scheme to launder approximately $5 million through dark money entities to influence the 2020 federal Senate elections in Georgia.

The Commission here moves for a partial dismissal of plaintiffs' claim two, which brings a claim outside the limited scope of judicial review of FEC enforcement actions pursuant to the Federal Election Campaign Act ("FECA"), and thus fails to state a claim for relief. Claim two alleges the controlling group of Commissioners' Statement of Reasons (the "Controlling Statement") applied an improper legal standard, a FECA term of art known as "reason to believe," to explain their decision not to take further action on plaintiffs' administrative complaint. However, claim two fails to state an independent and sufficient claim for relief pursuant to 52 U.S.C. § 30109(a)(8), which is the exclusive means of challenging the FEC's handling of administrative enforcement matters and the cause of action plaintiffs bring here. This is because the controlling Commissioners' assessment of the reason to believe standard is inseparable from their analysis of the underlying facts and substantive law at issue, which is the sole basis on which the Court may determine whether the Commissioners acted "contrary to law[.]" *Id.* § 30109(a)(8)(C). Dismissal of this claim would not impede judicial review in this case or any other, as the Court remains free to evaluate the actual *reasons* that served as the basis for dismissal, as Congress intended.

For the foregoing reasons, claim two of the plaintiffs' complaint should be dismissed for failing to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6).

BACKGROUND

I. THE FEC AND ITS ADMINISTRATIVE ENFORCEMENT PROCEDURES

The FEC is an independent agency of the United States government with jurisdiction over the administration, interpretation, and civil enforcement of the Federal Election Campaign Act, 52 U.S.C. §§ 30101-46 ("FECA"). *See generally* 52 U.S.C. §§ 30106(b)(1), 30107(a), 30109. Congress provided for the Commission to "prepare written rules for the conduct of its activities," 52 U.S.C. § 30106(e), "formulate policy" under FECA, *see, e.g.*, 52 U.S.C. § 30106(b)(1), and make rules and issue advisory opinions, 52 U.S.C. §§ 30107(a)(7), (8); *id.* §§ 30108; 30111(a)(8); *see also Buckley v. Valeo*, 424 U.S. 1, 110-11 (1976) (per curiam). The Commission is also authorized to institute investigations of possible violations of FECA, 52 U.S.C. § 30109(a)(1)-(2), and to initiate civil enforcement actions in the United States district courts, *id.* §§ 30106(b)(1), 30107(a)(6), 30107(e), 30109(a)(6).

FECA permits any person to file an administrative complaint with the Commission alleging a violation of the statute. 52 U.S.C. § 30109(a)(1). Absent waiver, proceedings on such complaints are covered by confidentiality protections, 52 U.S.C. § 30109(a)(12), 11 C.F.R. § 111.21, until the Commission "terminates its proceedings," 11 C.F.R. § 111.20. Upon receipt of an administrative complaint, the Commission's Office of General Counsel ("OGC") is required to notify anyone alleged to have committed such a violation, referred to as a respondent, and to provide such persons with an opportunity to demonstrate in writing that no action should be taken. *Id*. OGC then prepares a report to the Commission known as a General Counsel's Report. The Report analyzes the allegations in the complaint, applies the relevant law to the facts alleged, and sets forth OGC's recommendations for Commission action. The first General Counsel's Report in an enforcement MUR usually includes a recommendation that the

Commission take actions, or take no action, regarding the alleged violations.

Generally, if one or more Commissioners objects to a first General Counsel's Report after it has been circulated to the Commission, or if fewer than four Commissioners vote to approve or reject the report's recommendations by the voting deadline, the Commission considers the enforcement matter at an Executive Session. Executive Sessions are meetings that are closed to the public during which Commissioners consider pending enforcement matters and other items that must be kept confidential. *See* 11 C.F.R. § 2.4. During such meetings, the Commissioners may, *inter alia*, discuss OGC's recommendations and vote on potential actions like those described above, including whether there is "reason to believe" that a FECA violation has occurred. 52 U.S.C. § 30109(a)(2). Generally speaking, at the initial stage in the enforcement process, the Commission will take one of the following actions with respect to a MUR: (1) find ''reason to believe'' or (2) dismiss. *See* Federal Election Commission, *Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process*, 89 Fed. Reg. 19,729 (Mar. 20, 2024).

If at least four members of the Commission vote to find "reason to believe" a FECA violation has occurred, the Commission must notify the respondent of the alleged violation and its factual basis, and the agency then ordinarily investigates the allegations. 52 U.S.C. § 30109(a)(2). If the Commissioners determine there is "reason to believe" a FECA violation has occurred and the matter is investigated, OGC may recommend that the Commission find that there is "probable cause" to believe FECA has been violated. 52 U.S.C. § 30109(a)(3). Respondents are entitled to file a responsive brief, *id*., and OGC prepares a report to the Commission with further recommendations, 11 C.F.R. § 111.16. If at least four members of the Commission vote to find probable cause to believe that a violation has occurred, the Commission

must first attempt to resolve the matter by "informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement" with the respondents. 52 U.S.C. § 30109(a)(4)(A)(i). If informal methods of conciliation fail, the Commission may, "upon an affirmative vote of 4 of its members," file a *de novo* civil enforcement suit in federal district court. *Id.* § 30109(a)(6)(A).

If at least four members do not vote to find "reason to believe," no investigation or conciliation ensues, and the matter may be closed. In cases where the Commissioners divided evenly as to whether to proceed, the Commissioners who voted against taking further action "must provide a statement of their reasons" in order "to make judicial review a meaningful exercise." *FEC v. Nat'l Republican Senatorial Comm.*, 966 F.2d 1471, 1476 (D.C. Cir. 1992). "Since those Commissioners constitute a controlling group for purposes of the decision, their rationale necessarily states the agency's reasons for acting as it did." *Id.* Per 52 U.S.C. § 30109(a)(8)(B), aggrieved parties have 60 days from the day their complaint is dismissed to seek judicial review of the dismissal.

Pursuant to agency policy, a vote to close the file and therefore dismiss the matter becomes effective 30 days after the Commission Secretary certifies the Commissioners' vote. Disposition letters are sent to the complainants and respondents after the 30 days have elapsed and the file closes. This occurs simultaneously with notification to the administrative complainants and respondents and the public release of certain documents related to the matter on the FEC's website. *See* Federal Election Commission, *Disclosure of Certain Documents in Enforcement and Other Matters*, 81 Fed. Reg. 50,702, 50,703 (Aug. 2, 2016) (listing documents in a closed enforcement file that are publicly disclosed by the Commission). As a result, the 60-day window for plaintiffs to file suit does not begin until the 30 days have passed, ensuring that

administrative complainants will have 60 days from when they are informed of the agency's dismissal and its reasons for doing so in order to determine whether to challenge that dismissal in court. Press Release, Federal Election Commission, *FEC Implements New Enforcement Case Closure Procedures* (April 3, 2024), https://www.fec.gov/updates/fec-implements-new-enforcement-case-closure-procedures/ ("Case Closure Procedures").

FECA provides that the administrative complainant may seek judicial review in this District pursuant to 52 U.S.C. § 30109(a)(8)(A) in the event that the Commission dismisses or is alleged to have failed to act on a complaint. If a court in a review action declares that a Commission dismissal or failure to act is "contrary to law," the court can order the Commission to conform to that declaration within 30 days. *Id.* § 30109(a)(8)(C). If the Commission fails to conform to the declaration within 30 days, the complainant may obtain a private right of action against the administrative respondent for the alleged violations. *Id.*; *FEC v. Nat'l Conservative Political Action Comm.,* 470 U.S. 480, 488 (1985).

II. FACTUAL BACKGROUND

A. Administrative Proceedings Related to this Action

On November 14, 2023, Citizens for Responsibility and Ethics in Washington ("CREW") and two individuals, Rev. David Lewicki and Vladimir Shklovsky, filed an amended administrative complaint with the FEC against the American Coalition for Conservative Policies ("ACCP"), Policies, Solutions, and Action for America ("PSAA"), Right on Issues, Inc., Georgia United Victory, RightOn Time, Georgia Action Fund, John Fogarty, Jr., in his personal capacity, Christopher Marston in his personal capacity, Moses Ayala in his personal capacity, Caleb Crosby in his personal capacity, Paul Kilgore in his personal capacity, Kayla Glaze in her personal capacity, and Unknown Respondent(s), (collectively "Respondents"). *See* FEC MUR 8110 (American Coalitions for Conservative Policies, *et al.*),

https://www.fec.gov/data/legal/matter-under-review/8110/ (last visited Nov. 15, 2024) (hereinafter "MUR 8110 Pub. Rec.") (Amended Complaint dated Nov. 14, 2023). The Commission notified the Respondents of the administrative complaint and received a response from them with regard to the allegations. *Id.* (Notification of Complaint to Respondents dated Feb. 10 and Nov. 22, 2023). After evaluating available information, OGC drafted a comprehensive First General Counsel's Report, providing the report to the Commission on May 3, 2024. *Id.* (First General Counsel's Report dated May 3, 2024).

On June 25, 2024, the Commission voted on two motions. The first motion proposed numerous findings and actions, and decisions to take no action, that varied with respect to each alleged violation of FECA and the various respondents at issue in the MUR 8110 administrative complaint. Among other things, the first motion proposed finding reason to believe that the Unknown Respondents had "violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b) by making a contribution in the name of another person[,]" and that ACCP, PSAA, and RightOn Issues Inc. had "violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b) by knowingly permitting its name to be used to effect a contribution in the name of another person." MUR 8110 Pub. Rec. (Certification dated June 25, 2024). The motion also proposed taking "no action at this time" as to whether Georgia United Victory, RightOn Time, Georgia Action Fund, Kayla Glaze and Paul Kilgore "violated 52 U.S.C. §§ 30104, 30122 and 11 C.F.R. §§ 104.1, 104.2, 104.3, 104.8, and 110.4(b) by knowingly accepting, and failing to report, a contribution in the name of another person." *Id.* Additionally, the motion proposed the Commission take "no action at this time" as to whether ACCP, PSAA, and RightOn Issues, Inc. "violated 52 U.S.C. §§ 30103, 30104 and 11 C.F.R. §§ 102.1(d) and 104.1 by failing to register and report as political committees" and "whether John Fogarty, Jr., Christopher Marston, Moses Ayala, and Caleb Crosby, in their

personal capacities, violated 52 U.S.C. §§ 30103, 30104 and 11 C.F.R. §§ 102.1(d), 104.1, 104.2, 104.3, and 104.8 by causing American Coalition for Conservative Policies, Policies, Solutions and Action for America, and RightOn Issues to [fail] to register and report as political committees." *Id.* This motion failed by a Commission vote of 3 to 3. *Id.* That same day, the Commissioners voted on a second motion to dismiss MUR 8110 and close the administrative file effective 30 days from the vote's certification by the Commission Secretary, but that vote also split 3-3 and thus did not succeed. *Id.*

On July 3, 2024, the Commissioners voted 6-0 to close the administrative file for MUR 8110 effective 30 days from the vote's certification by the Commission Secretary. MUR 8110 Pub. Rec. (Certification dated July 3, 2024). On July 29, 2024, before the file was closed and made public on August 2, the three Commissioners who voted against finding reason to believe a violation occurred issued a Statement of Reasons (the "Controlling Statement") explaining their votes on June 25 and July 3, 2024. MUR 8110 Pub. Rec. (Statement of Reasons dated July 29, 2024). Consistent with the agency's Case Closure Procedures, in the absence of any additional action by the Commission, the matter was dismissed on August 2, 2024, and a notification of this action was sent to plaintiffs and respondents, explaining the Commission's action in the MUR, and enclosing the Statement of Reasons. MUR 8110 Pub. Rec. (Notifications to Respondents dated August 2, 2024). That same day, the case file was released to the public via the FEC's website, including the Controlling Statement, as well as other documents customarily released in accord with the Commission's disclosure policy.

B. This Judicial Review Action

Plaintiff filed this 52 U.S.C. § 30109(a)(8) suit on August 30, 2024. See Complaint for Injunctive and Declaratory Relief (ECF 1) ("Complaint" or "Compl."). Plaintiffs bring four

claims, of which only claim two is addressed in the instant Motion.[1] Claim two alleges that the Controlling Statement "interpreted the FECA's reason-to-believe standard to impose a heightened evidentiary bar that conflicts with controlling precedent." (Compl. ¶ 59) ("Claim Two"). Plaintiffs claim that the Commission's Controlling Statement interpreted "the standard to reject any complaint where evidence might exist that could weigh against the allegations in the complaint, even if it were not available to the complainant and not supplied by a respondent." (Compl. ¶ 60). Plaintiffs allege that the Controlling Statement rests on an "impermissible interpretation of [law]" and that accordingly the Commission's dismissal was contrary to law. (Compl. ¶ 62).

As to all claims, the plaintiffs request that the Court declare that the Commission's dismissal of plaintiffs' administrative complaint in MUR 8110 was arbitrary, capricious, an abuse of discretion, and contrary to law, and seeks an order compelling the Commission to conform to such a declaration within 30 days pursuant to 52 U.S.C. § 30109(a)(8)(C). (Compl., Prayer for Relief, ¶¶ 1-2.)

ARGUMENT

Claim two of plaintiffs' Complaint should be dismissed for failure to state a claim upon which relief can be granted. This claim challenges the Controlling Statement's interpretation of the FECA's reason-to-believe standard as a "heightened evidentiary bar that conflicts with controlling precedent[,]" but does not present an independent and sufficient basis for relief pursuant to 52 U.S.C. § 30109(a)(8)(C), and should be dismissed.

[1] Plaintiffs' claims one, three and four, not addressed in this Motion, allege that the Controlling Statement was untimely, relied on an impermissible interpretation of the FECA's ban on conduit contributions, and that the Controlling Statement failed to offer a "rational connection between the facts found and the choice made." (Compl. ¶¶ 55-57, 64-65, 68).

I. STANDARD OF REVIEW

Dismissal of a complaint is appropriate under Fed. R. Civ. P. 12(b)(6) where, accepting the factual allegations in the complaint as true and drawing all reasonable inferences in the plaintiffs' favor, the complaint fails as a matter of law to state a claim on which relief can be granted. Fed. R. Civ. P. 12(b)(6); *Rollins v. Wackenhut Servs., Inc.*, 703 F.3d 122, 129 (D.C. Cir. 2012) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 558 (2007)); *Ashcroft v. Iqbal,* 556 U.S. 662, 678 (2009). The court must treat the complaint's factual allegations—including mixed questions of law and fact—as true and draw all reasonable inferences in the plaintiff's favor. *Browning v. Clinton*, 292 F.3d 235, 242 (D.C. Cir.2002) (citations omitted). The court need not, however, accept as true inferences unsupported by facts set out in the complaint or legal conclusions cast as factual allegations. *Id.* A claim must be dismissed "when the allegations in a complaint, however true, could not raise a claim of entitlement to relief." *Twombly*, 550 U.S. at 558.

II. PLAINTIFFS' CLAIM TWO FAILS TO STATE A CLAIM BECAUSE THE REASON-TO-BELIEVE STANDARD IS INSEPARABLE FROM THE CONTROLLING COMMISSIONERS' EVALUATION OF THE FACTS AND SUBSTANTIVE LAW AT ISSUE THAT THE COURT IS CALLED UPON TO EVALUATE

Plaintiffs allege in Claim Two that the Controlling Statement interpreted FECA's reason-to-believe standard to impose a heightened evidentiary bar that conflicts with controlling precedent. (Compl. ¶ 59.) Plaintiffs argue that "the Commission has interpreted the standard to reject any complaint where evidence might exist that could weigh against the allegations in the complaint, even if it were not available to the complainant and not supplied by a respondent with access to it and the ability to furnish it." (Compl. ¶ 60.) Accordingly, plaintiffs claim that "the Controlling Statement's interpretation is inconsistent with binding precedent, which recognizes a

reason to believe is absent only when there is 'no grounds for investigation.'" (Compl. ¶ 61.) In sum, plaintiffs allege that the Controlling Statement's reason to believe analysis, divorced from any discussion of FECA's substantive provisions governing private parties, is an "impermissible interpretation of [law]" sufficient for a contrary to law finding. *Orloski v. FEC*, 795 F.2d 156, 161 (D.C. Cir. 1986).[2]

Plaintiffs' Claim Two appears to be effectively unprecedented as a stand-alone claim. An agency decision is considered "contrary to law" if "(1) the FEC dismissed a complaint for an impermissible interpretation of the Act, . . . or (2) if the dismissal, under a permissible interpretation, was arbitrary and capricious or an abuse of discretion." *Orloski*, 795 F.2d at 161 (citing *FEC v. Democratic Senatorial Campaign Committee*, 454 U.S. 27, 31, 37 (1981); *In re Carter-Mondale Reelection Committee*, 642 F.2d 538, 542 (D.C. Cir. 1980)). Aggrieved administrative complainants therefore may challenge the dismissal "of the complaint" based upon the Commissioners' analysis of the FECA provisions at issue and the facts as applied to that law.[3] 52 U.S.C. § 30109(a)(8)(C). In evaluating such challenges, courts have on multiple occasions opined on what "reason to believe" means in the context of FECA—a necessary step to determine whether the Commission did or did not have reason to believe a violation occurred based on the facts before them. *See, e.g., Hagelin v. FEC*, 411 F.3d 237, 239 (2005) (evaluating the reason to believe standard). However, it does not follow that if a controlling group of

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[2] The D.C. Circuit Court of Appeals has recently ordered briefing before the en banc court addressing, *inter alia*, "whether *Orloski v. FEC* correctly held that an FEC decision can be 'contrary to law' under 52 U.S.C. § 30109(a)(8)(C) 'if the FEC's dismissal of the complaint . . . was arbitrary or capricious, or an abuse of discretion.' 795 F.2d 156, 161 (D.C. Cir. 1986)." Order, *End Citizens United v. FEC et al.*, 22-5277 (D.C. Cir. Oct. 15, 2024) (Doc. #2079921).

[3] Indeed, plaintiffs' claims three and four seek review on this basis, and the Commission does not contest those claims on the basis that they fail to state a claim upon which relief can be granted.

Commissioners interpret the reason to believe standard in a way that differs from the court, the Commission's "dismissal *of the complaint*[,]" 52 U.S.C. § 30109(a)(8)(C), is therefore contrary to law. Rather, the Commissioners' reason-to-believe analysis is inseparable from the facts and law at issue in plaintiffs' administrative complaint, and must be considered as an integral part of the Court's evaluation of whether that substantive analysis was contrary to law. Accordingly, Claim Two fails to state an independent and sufficient basis for relief, and should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6).

That the government's articulation of an abstract legal standard should not be the basis for a finding that the government acted contrary to law is obvious in the realm of constitutional litigation, and is analogous here. To determine if a municipality violated a citizen's right to free speech by, for instance, denying a speaking permit, the court would begin by determining the proper level of scrutiny. That inquiry would determine how important the government's countervailing interest must be, and how closely the means employed were tailored to advance that interest. *See, e.g., Green v. U.S. Dep't of Just.*, 54 F.4th 738, 745 (D.C. Cir. 2022). Ultimately, however, it would be the government's conduct as applied to that test which would determine liability. On the other hand, it would be reversible error for the court to instead look solely to the government's analysis of what level of constitutional scrutiny should apply, and hold the government liable because it previously determined that rational basis review should govern its actions.

At base, plaintiffs' Claim Two fails because the Commissioners' definition of reason-to-believe is inseparable from their analysis of the facts and law at issue in plaintiffs' administrative complaint, and therefore fails to establish an independent cause of action. Enforcement proceedings are not the realm of policymaking, and in this context Commissioners are not tasked

with defining FECA's procedural provisions. Rather, the Commissioners' task is to interpret terms such as "reason to believe" within the context of the facts and substantive law at issue in the administrative complaint before them. In turn, the Court cannot evaluate whether the Commission did or did not act "contrary to law" other than by evaluating the Commissioners' interpretation of the facts alleged in the administrative complaint and whether they constitute sufficient reason to believe FECA was violated. Indeed, to hold otherwise would lead to absurd results, as courts could second-guess the Commission's enforcement actions despite a faultless analysis of the campaign finance law purportedly violated and the application of that law to the facts. Nothing in FECA's judicial review provision, or the federal courts' interpretation of that provision, supports such an outcome. By simply alleging that the Commission misinterprets the reason-to-believe standard plaintiffs fail to state a claim upon which relief can be granted, and Claim Two should accordingly be dismissed.

Finally, plaintiffs' Complaint itself evidences that what plaintiffs truly seek to challenge is the Controlling Statement's interpretation of FECA and analysis of the facts at issue, as that document only briefly addresses the reason-to-believe standard despite it being put forward as a separate cause of action. One paragraph addresses the Controlling Statement's reason-to-believe standard itself, (Compl. ¶ 46,) and another cites "controlling" precedent from this Circuit that allegedly "recognizes a reason to believe is absent only when there is 'no grounds for investigation.'" (*Id.* ¶ 61) (citing *Campaign Legal Ctr. v. FEC*, 106 F.4th 1175, 1194 (D.C. Cir. 2024)). Even this limited authority, however, does not support a free-floating claim. The more complete quote from *CLC*, 106 F.4th at 1194, reads: "[t]he Commission failed to explain how it concluded, in the face of the complaint and the publicly available sources it quotes, that it had no grounds for investigation." This underscores the inseparability of the reason to believe standard

and the underlying facts, as the *CLC* court's opinion is a 20-page discussion of the details of the administrative complaint and the Commission's assessment thereof.

Nothing in the Complaint addresses why the Controlling Statement's language addressing the reason-to-believe standard should constitute an independent basis to find the dismissal of MUR 8110 contrary to law. Instead, the Complaint focuses almost exclusively on the facts and law at issue in the underlying MUR, consistent with the traditional bases for review of FEC dismissals pursuant to *Orloski*, 795 F.2d at 161, and its progeny. *See* 52 U.S.C. § 30109(a)(8). Accordingly, this Court should dismiss plaintiffs' Claim Two as unnecessary, and outside the scope of limited judicial review Congress has authorized with respect to the enforcement of federal campaign finance law.

CONCLUSION

For the foregoing reasons, plaintiffs' Claim Two should be dismissed for failure to state a claim upon which relief can be granted.

Respectfully submitted,

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November 18, 2024

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2024, 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.

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