

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

<hr/>		)	
CITIZENS FOR RESPONSIBILITY AND	)		
ETHICS IN WASHINGTON, <i>et al.</i> ,	)		
	)		
Plaintiffs,	)	Civ. No. 15-2038 (RC)	
	)		
v.	)		
	)	ANSWER	
FEDERAL ELECTION COMMISSION,	)		
	)		
Defendant.	)		
<hr/>		)	

**DEFENDANT FEDERAL ELECTION COMMISSION’S ANSWER**

Defendant Federal Election Commission (“FEC” or “Commission”) submits this answer to the Complaint for Declaratory Judgment and Injunctive Relief filed by plaintiffs Citizens for Responsibility and Ethics in Washington (“CREW”) and Melanie Sloan. Any allegation not specifically responded to below is DENIED.<sup>1</sup>

---

<sup>1</sup> This litigation is commenced against the Federal Election Commission (Commission) on the grounds that the Commission did not approve a recommendation of the Commission’s Office of General Counsel (“OGC”) to find “reason to believe” (“RTB”) that a violation of the FECA or of its regulations occurred in this case and that the file was consequently closed. 52 U.S.C. § 30109(a)(8) (formerly 2 U.S.C. § 437g(a)(8)). The reason for the inaction of the Commission is because there were not four or more Commissioners’ votes to proceed on the RTB recommendation. Courts have held that, in order to properly review the inaction of the Commission, the court must be supplied with a “statement of reasons” of those Commissioners who voted against, or abstained from voting for, the OGC recommendation, who the court has called the “controlling group.” See *Democratic Cong. Campaign Comm. v. FEC*, 831 F.2d 1131, 1132 (D.C. Cir. 1987); *FEC v. Nat’l Republican Senatorial Comm.*, 966 F.2d 1471, 1476 (D.C. Cir. 1992) (“[W]hen the Commission deadlocks 3-3 and so dismisses a complaint, that dismissal, like any other, is judicially reviewable under Section [30109(a)(8)]. . . . [T]o make judicial review a meaningful exercise, the three Commissioners who voted to dismiss must provide a statement of their reasons for so voting. 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.”); *Common Cause v. FEC*, 655 F. Supp. 619 (D.D.C. 1986), *rev’d on other grounds*, 842 F.2d 436 (D.C. Cir. 1988). The Commission has historically voted by a majority vote (pursuant to 52 U.S.C. §§ 30106(c) and 30107(a)(6) (formerly 2 U.S.C. §§ 437c(c) and

1. This paragraph summarizes plaintiffs' complaint, the allegations of which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the Commission dismissed an administrative complaint filed by plaintiffs, in which the Commission on Hope Growth and Opportunity ("CHGO") was the respondent.

2. This paragraph describes portions of the General Counsel's Reports in the administrative matter under review, which speak for themselves, and so no response is required.

3. DENY.

4. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph, which concern the thoughts and expectations of plaintiffs and unspecified provisions of law. To the extent this paragraph alleges that the FEC has refused to enforce the Federal Election Campaign Act ("FECA") or that the decisions at issue in this case were contrary to FECA, such allegations are DENIED. To the extent this paragraph requests judicial relief, that relief should be denied.

5. ADMIT that the judicial review provision in FECA at 52 U.S.C. § 30109(a)(8) provides statutory jurisdiction and provides for venue in the U.S. District Court for the District of Columbia; that 28 U.S.C. § 1331 provides federal question jurisdiction in the district court; and that the Court has personal jurisdiction over the Commission. DENY the remainder of the paragraph.

---

437d(a)(6))) to authorize the OGC's appearance on behalf of the Commission in suits commenced pursuant to 52 U.S.C. 30109(a)(8) (formerly 2 U.S.C. § 437g(a)(8)). Accordingly, the views of the Commissioners who voted to pursue enforcement are not defended by the OGC, although their statements of reasons are part of the administrative record and available for the Court's consideration. Furthermore, the OGC's representational role in this matter does not change OGC's recommendation to find RTB or any of the reasons supporting it, which are part of the administrative record.

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

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

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

9. To the extent this paragraph contains allegations about unspecified information on CREW's website and in unspecified reports and press releases, such sources speak for themselves, and so no response is required. The Commission is without knowledge or information sufficient to admit or deny CREW's descriptions of its work in this paragraph.

10. The Commission ADMITS that CREW has filed administrative complaints with the FEC, but the FEC is without knowledge or information sufficient to admit or deny the allegations in this paragraph concerning when and why CREW files such complaints.

11. The Commission is without knowledge or information sufficient to admit or deny the allegations in the first sentence of this paragraph. The remainder of the paragraph is DENIED.

12. Commission ADMITS that information about contributions to campaigns of Congressional candidates aids in detecting "pay-to-play schemes." The Commission is otherwise without knowledge or information sufficient to admit or deny the allegations in this paragraph.

13. This paragraph describes a report issued by CREW, which speaks for itself, and so no response is required. To the extent this paragraph sets forth allegations about how CREW

obtained information discussed in a report that it issued, the Commission is without knowledge or information sufficient to admit or deny such allegations.

14. This paragraph describes a report issued by CREW, which speaks for itself, and so no response is required. To the extent this paragraph sets forth allegations about how CREW obtained information discussed in a report that it issued, the Commission is without knowledge or information sufficient to admit or deny such allegations.

15. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph concerning CREW's access to information. The remainder of this paragraph is DENIED.

16. ADMIT the first sentence of this paragraph. ADMIT that registered voters (and others) may legally review information that is publicly reported pursuant to FECA's disclosure requirements. The Commission DENIES that it has failed to properly administer FECA. The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph, which are vague and refer, *inter alia*, to unspecified provisions of FECA and the unspecified "political activities" of an unidentified political committee.

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

18. ADMIT that Ms. Sloan was one of the administrative complainants in this case and has filed other administrative complaints with the Commission. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph, which concern the thoughts and expectations of plaintiffs and unspecified provisions of FECA. To the extent this paragraph alleges that the FEC has refused to enforce "FECA's mandatory disclosure

requirements,” or that the FEC’s dismissal decisions at issue in this case were contrary to FECA, such allegations are DENIED.

19. ADMIT.

20. ADMIT that FECA and FEC regulations contain provisions requiring groups meeting the definition of “political committee” to comply with certain organizational, registration, and disclosure requirements.

21. This paragraph and its accompanying footnote quote the statutory and regulatory definitions of “independent expenditure” and the regulatory definition of “expressly advocating,” which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the language quoted in this paragraph appears in the cited statutory and regulatory definitions, but DENY that the paragraph sets forth complete statutory or regulatory definitions of these terms.

22. This paragraph describes statutory and regulatory requirements regarding reporting of “independent expenditures” which speak for themselves, and so no response is required.

23. This paragraph describes statutory and regulatory requirements regarding reporting of “independent expenditures” which speak for themselves, and so no response is required.

24. This paragraph describes the statutory and regulatory definitions of an “electioneering communication,” which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the language quoted in this paragraph appears in the cited statutory and regulatory definitions, but DENY that the paragraph sets forth complete statutory or regulatory definitions of this term.

25. This paragraph describes statutory and regulatory disclosure requirements for an “electioneering communication” which speak for themselves, and so no response is required.

26. This paragraph describes statutory and regulatory disclosure requirements for an “electioneering communication” which speak for themselves, and so no response is required. To the extent a response is required, DENY that the second sentence sets forth a complete statement of the relevant disclosure requirements. To the extent the second sentence alleges specific reporting obligations by CHGO or other entities in unspecified contexts, the FEC is without information sufficient to admit or deny the allegations.

27. This paragraph describes statutory provisions and Commission regulations, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the language quoted in this paragraph appears in the cited statutory and regulatory provisions, but DENY that the paragraph sets forth the complete statutory or regulatory provisions.

28. This paragraph quotes a provision of FECA and Commission regulations, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the language quoted in this paragraph appears in the statutory and regulatory definitions of the term “political committee,” but DENY that this paragraph sets forth all the requirements for such a committee to exist.

29. This paragraph quotes portions of the statutory provision defining “expenditure” and a Supreme Court decision construing that definition, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the quoted language in the first sentence of this paragraph appears in the statutory definition of the term “expenditure” but DENY that the first sentence of this paragraph sets forth the complete or accurate statutory

definition of that term, and ADMIT that the Supreme Court in *Buckley v. Valeo* construed “expenditure” to reach only “funds used for communications that expressly advocate the election or defeat of a clearly identified candidate.” 424 U.S. 1, 80 (1976) (per curiam).

30. This paragraph purports to describe the legal requirements for determining whether a group is a political committee based on the Supreme Court’s decision in *Buckley v. Valeo*, 424 U.S. 1 (1976) (per curiam), to which no response is required. To the extent a response is required, ADMIT that the Supreme Court in *Buckley* adopted a “major purpose” requirement for certain organizations but DENY that this paragraph sets forth a complete description of that analysis.

31. This paragraph paraphrases the Political Committee Status Supplemental Explanation and Justification, 72 Fed. Reg. 5595 (Feb. 7, 2007) (“Supplemental E&J”), and the Supreme Court’s decision in *FEC v. Mass. Citizens for Life Inc.*, 479 U.S. 238 (1986) (“*MCFL*”), which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the Supplemental E&J provides guidance about how the Commission determines an organization’s major purpose, but DENY that this paragraph sets forth the complete explanation and justification provided in the Supplemental E&J or the *MCFL* decision.

32. This paragraph paraphrases the Supplemental E&J, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Supplemental E&J provides guidance about how the Commission determines an organization’s major purpose, but DENY that this paragraph sets forth the complete explanation and justification provided in the Supplemental E&J.

33. This paragraph contains plaintiffs’ descriptions of a provision of FECA and Commission regulations, which speak for themselves, and so no response is required. To the

extent a response is required, ADMIT that FECA and Commission regulations require groups meeting the definition of “political committee” to file a statement of organization with the Commission within 10 days of becoming a political committee.

34. This paragraph contains plaintiffs’ descriptions of certain provisions of FECA and Commission regulations, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that FECA and Commission regulations require groups meeting the definition of “political committee” to file periodic reports with the FEC that disclose the information described in this paragraph.

35-40. These paragraphs describe FECA’s statutory provisions governing the FEC’s administrative enforcement process, which speak for themselves, and so no responses are required. To the extent responses are required, ADMIT that these paragraph generally describe FECA’s administrative enforcement procedures, including the procedures for obtaining judicial review of a Commission dismissal decision.

41. ADMIT that the allegations in this paragraph concerning CHGO’s filing status with the Internal Revenue Service are consistent with CHGO’s self-description as set forth in its responses to FEC Matter[s] Under Review (“MUR”) 6391 and 6471. ADMIT that CHGO has not registered as a political committee with the FEC.

42. This paragraph purports to describe “findings” made in the General Counsel’s Reports in MURs 6391 and 6471, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that the Commission’s Third General Counsel’s Report stated that CHGO spent \$4,059,784.33 on certain television advertisements in 2010 and that these advertisements were “either an express-advocacy independent expenditure or an electioneering communication.” ADMIT that CHGO produced and caused to be broadcast

television advertisements featuring at least 15 candidates for federal office. The allegation in this paragraph that CHGO spent the “vast majority” of its money on television advertisements in 15 unspecified elections is too vague to admit or deny.

43. ADMIT that CHGO produced and broadcast advertisements featuring at least 15 candidates for federal office in 2010. To the extent this paragraph contains plaintiffs’ characterization of the advertisements, they speak for themselves, and so no response is required.

44. ADMIT that CHGO produced and caused to be broadcast an advertisement identifying Rep. John Spratt and Mick Mulvaney. DENY that this paragraph includes a complete and accurate description of the advertisements. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.<sup>2</sup>

45. ADMIT that CHGO produced and caused to be broadcast an advertisement that contained the text quoted in this paragraph. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel’s Report in MUR 6471 — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

---

<sup>2</sup> The first and second sentences of footnote 2 on page 13 of the Complaint identify the source of spending estimates compiled by Plaintiffs. The Commission is without knowledge or information sufficient to admit or deny the veracity of this data. Regarding the third and fourth sentences of the footnote, the Commission ADMITS that OGC conducted an investigation in which it obtained certain financial information regarding CHGO and its activities, and that not all of this information was part of the public record.

46. ADMIT that CHGO produced and caused to be broadcast an advertisement that contained the text quoted in this paragraph. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

47. ADMIT that CHGO produced and caused to be broadcast an advertisement that identified Representative Kathy Dahlkemper and Mike Kelly. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

48. ADMIT that CHGO produced and caused to be broadcast an advertisement that identified Representative Frank Kratovil and Andy Harris. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

49. ADMIT that CHGO produced and caused to be broadcast an advertisement that identified Representative Allen Boyd and Steve Southerland. DENY that this paragraph includes

a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

50. ADMIT that CHGO produced and caused to be broadcast an advertisement that identified Representative Suzanne Kosmas and Sandy Adams. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

51. ADMIT that CHGO produced and caused to be broadcast an advertisement that identified Representative Baron Hill and Todd Young. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

52. ADMIT that CHGO produced and caused to be broadcast an advertisement that identified Representative C.A. Ruppertsberger and Macelo Cardarelli. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself —

it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

53. ADMIT that CHGO produced and caused to be broadcast an advertisement that identified Representative Paul Kanjorski and Lou Barletta. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

54. ADMIT that CHGO produced and caused to be broadcast an advertisement that identified Representative John Salazar and Scott Tipton that included the quotations in the second and third sentences of this paragraph. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

55. ADMIT that CHGO produced and caused to be broadcast advertisements that identified Representative Dan Maffei and Ann Marie Buerkle. DENY that this paragraph includes a complete and accurate description of the advertisements. To the extent that this paragraph describes portions of the First General Counsel's Report—which speaks for itself—it requires no response. To the extent the allegations in this paragraph purport to relate spending

estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

56. This paragraph appears to describe portions of the Third General Counsel's Report in MUR 6471, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report identified the referenced advertisements. DENY that this paragraph includes a complete and accurate description of the advertisements.

57. This paragraph refers to unspecified "additional advertisements" and "races," and the Commission is unable to admit or deny such vague allegations.

58. ADMIT that CHGO produced and caused to be broadcast an advertisement that identified Representative Walt Minnick. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

59. ADMIT that CHGO produced and caused to be broadcast an advertisement that identified Representative Carol Shea-Porter and included the statements quoted in the second and third sentences of this paragraph. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from

the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

60. ADMIT that CHGO produced and caused to be broadcast an advertisement that identified Representative Allen Boyd and included the statements quoted in the second and third sentences of this paragraph. DENY that this paragraph includes a complete and accurate description of the advertisement. To the extent that this paragraph describes portions of the First General Counsel's Report — which speaks for itself — it requires no response. To the extent the allegations in this paragraph purport to relate spending estimates CREW allegedly obtained from the Campaign Media Analysis Group, the Commission is without knowledge or information sufficient to admit or deny the accuracy of the estimates.

61. This paragraph appears to describe portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Commission's Third General Counsel's Report identified the referenced advertisement.

62. ADMIT.

63. ADMIT.

64. ADMIT that the FEC sent a letter to CHGO's attorney instructing CHGO to preserve documents related to the administrative complaint. The phrase "as required by law," as used in this paragraph, is too vague and ambiguous for the FEC to admit or deny.

65. ADMIT that on May 23, 2011, plaintiffs filed an administrative complaint that was designated by the Commission as MUR 6471. The remainder of this paragraph describes the administrative complaint, which speaks for itself, and so no response is required. To the

extent a response is required, ADMIT that plaintiffs' administrative complaint alleged that CHGO violated certain provisions of FECA.

66. ADMIT.

67. ADMIT the first sentence of this paragraph. The remainder of the paragraph describes CHGO's tax return filed with the Internal Revenue Service for the 2010 fiscal year, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that CHGO reported spending the amounts alleged and disclosed the officers identified in the second, third, and fourth sentences of this paragraph.

68. To the extent this paragraph describes the text of the referenced email, the email speaks for itself, and no response is required. To the extent a response is required, ADMIT that the referenced document contains the quoted language.

69. ADMIT the first sentence of this paragraph. The remainder of this paragraph describes the administrative complaint, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that plaintiffs' amended administrative complaint alleged that CHGO violated certain provisions of FECA.

70. ADMIT the first sentence of this paragraph. The remainder of this paragraph describes CHGO's tax return filed with the IRS for the 2011 fiscal year, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT the second, third and fifth sentences. The Commission further ADMITS the fourth sentence to the extent it describes CHGO's disclosed expenses for management and legal, but DENIES the fourth sentence to the extent that it alleges CHGO had "approximately \$14,000 in other expenses." CHGO's 2011 FORM 990 reported \$13,078 in non-management and non-legal expenses.

71. This paragraph purports to describe portions of the First General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the First General Counsel's Report contains the statements in this paragraph, except to the extent that the fourth sentence suggests that the First General Counsel's Report made recommendations regarding the amount of CHGO's independent expenditures and electioneering communications, which is DENIED.

72. ADMIT that on September 16, 2014, the Commission, by a 3-to-3 vote, did not find reason to believe CHGO violated FECA by failing to register as a political committee, file disclosure reports, or provide appropriate disclaimers on its advertisements. Further ADMIT that the Commission, by a vote of 6-0, found reason to believe that CHGO violated 52 U.S.C. § 30104 by failing to report the communications at issue in the First General Counsel's Report; authorized the use of compulsory process as to the alleged violations of 52 U.S.C. § 30104; authorized a Factual and Legal Analysis underlying its findings; approved appropriate letters to notify CHGO of the Commission's findings; and took no action on the allegations that CHGO violated FECA by failing to organize, register, and report as a political committee and failing to include proper disclaimers. This paragraph is otherwise DENIED.

73. ADMIT.

74. ADMIT the first sentence of this paragraph. The remainder of this paragraph describes portions of the Second General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Second General Counsel's Report contains the statements in this paragraph.

75. This paragraph describes portions of the Second General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Second General Counsel's Report contains the statements in this paragraph.

76. This paragraph describes portions of the Second General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Second General Counsel's Report contains the statements in this paragraph.

77. This paragraph describes portions of the Second General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Second General Counsel's Report contains the statements in this paragraph. Further ADMIT that under CHGO's articles of association, the treasurer was responsible for keeping all minute books, correspondence, and other records of CHGO.

78. This paragraph describes portions of the Second General Counsel's Report and the Third General Counsel's Report, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that these reports contain the statements in this paragraph.

79. This paragraph describes portions of the Second General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Second General Counsel's Report contains the quoted language and statements, except that as to the final sentence of this paragraph, DENY that "CHGO concluded" that 77% of its advertisements and 74% of its total spending went toward independent expenditures.

80. This paragraph describes portions of the Second General Counsel's Report and certain documents described in that report, which speak for themselves, and so no response is

required. To the extent a response is required, ADMIT that the Second General Counsel's Report contains the statements and quotations in this paragraph.

81. This paragraph describes portions of the Second General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Second General Counsel's Report contains the statements in this paragraph.

82. ADMIT.

83. ADMIT that Commissioners Petersen, Hunter, and Goodman proposed probable cause conciliation on CHGO's alleged reporting violations, that the Commission did not take a formal vote on the matter at that time, and that OGC continued its investigation. This paragraph is otherwise DENIED.

84. ADMIT the first sentence of this paragraph. The remainder of this paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report described OGC's investigation into CHGO and included a recommendation that the Commission find reason to believe CHGO violated certain provisions of FECA. This paragraph is otherwise DENIED.

85. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains the statements alleged in this paragraph.

86. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains information regarding \$3.2 million transferred by Meridian Strategies, LLC, to New Day Media Services, LLC, for advertisement placements.

87. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, DENY that the Third General Counsel's Report stated that OGC obtained records regarding Verve Broadcast Design in November 2014. ADMIT that the Third General Counsel's Report contains the remaining statements alleged in this paragraph.

88. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains the statements alleged in this paragraph.

89. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains the statements alleged in this paragraph.

90. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains the statements alleged in this paragraph.

91. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains the statements alleged in this paragraph.

92. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains the statements and quotations alleged in this

paragraph. To the extent this paragraph contains plaintiffs' characterization of statements made by Mr. Canfield and Mr. Reed during OGC's investigation, no response is required.<sup>3</sup>

93. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains the statements and quotations alleged in this paragraph.

94. This paragraph describes and characterizes CHGO's tax return filings and statements included in the Third General Counsel's Report, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that CHGO's Form 990 filings for the 2010 and 2011 fiscal years reported no expenditures for fundraising expenses or "[p]rofessional fundraising services"; further ADMIT that the Third General Counsel's report contained the quotations alleged in the fifth sentence. DENY that this paragraph contains an accurate or complete description of the alleged statements.

95. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains the statements and quotations alleged in this paragraph.

96. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains the statements alleged in this paragraph.

---

<sup>3</sup> Footnote 3 on page 26 of the complaint contains plaintiffs' characterization of statements made by Kira Swencki, and no response is required to such characterizations. To the extent a response is required, ADMIT that the Third General Counsel's Report relates Ms. Swencki's statement that "she created PowerPoint presentations for CHGO" and "sent drafts of the PowerPoint presentations to Reed, who provided her with edits and instructions."

97. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains the statements alleged in this paragraph.

98. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contains the quotation alleged in this paragraph.

99. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report cited internal documents and the Second General Counsel's Report in support of its recommendation that the Commission find that CHGO violated FECA, but DENY to the extent that the paragraph suggests that the Second General Counsel's Report included findings of fact.

100. This paragraph describes portions of the Third General Counsel's Report, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Third General Counsel's Report contained the recommendation alleged in this paragraph.

101. ADMIT.

102. ADMIT that on October 1, 2015, the Commission considered the allegations in plaintiffs' administrative complaint and, by a 3-to-3 vote, did not find reason to believe CHGO violated FECA; further ADMIT that the Commission then voted 5 to 1 to close the file. ADMIT that on September 24, 2014 the Commission found reason to believe that the CHGO violated 52 U.S.C. § 30104 by failing to file reports. This paragraph is otherwise DENIED.

103. ADMIT the first sentence of this paragraph, except that the referenced Statement of Reasons was issued on November 6, 2015, not November 5, 2015. The second sentence of this paragraph describes portions of the Statement of Reasons of Commissioner Lee E. Goodman, Commissioner Caroline C. Hunter, and then-Vice Chairman Matthew S. Petersen in MURs 6391 and 6471, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the Statement of Reasons of Commissioners Goodman and Hunter and then-Vice Chairman Petersen is the explanation for the decision of the “controlling group” in MURs 6391 and 6471 and that the referenced Statement of Reasons contains the quoted language.

104. This paragraph describes portions of the Statement of Reasons of Commissioners Lee E. Goodman and Caroline C. Hunter and then-Vice Chairman Matthew S. Petersen in MURs 6391 and 6471, which speaks for itself, and so no response is required. ADMIT that the referenced Statement of Reasons contains the quoted language.

105. This paragraph describes portions of the referenced Statement of Reasons, which speaks for itself, and contains legal conclusions, and so no response is required. To the extent a response is required, ADMIT that the referenced Statement of Reasons contains the quoted language but DENY plaintiffs’ characterization of the investigation in this paragraph’s second sentence.

106. This paragraph describes portions of the referenced Statement of Reasons, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the referenced Statement of Reasons contains the quoted language. DENY plaintiffs’ characterization of the Statement of Reasons in this paragraph’s second sentence.

107. This paragraph describes portions of the referenced Statement of Reasons, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the referenced Statement of Reasons contains the quoted language. DENY the “[n]onetheless” characterization in the first sentence of this paragraph.

108. This paragraph describes portions of the Statement of Reasons of then-Chair Ann M. Ravel and Commissioner Ellen L. Weintraub, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the referenced Statement of Reasons contains the quoted language.

109. This paragraph contains a block quote from the referenced Statement of Reasons, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the referenced Statement of Reasons contains the quoted language.

110. This paragraph quotes a portion of the referenced Statement of Reasons, which speaks for itself, and so no response is required. To the extent a response is required, ADMIT that the referenced Statement of Reasons contains the quoted language.

111. The Commission incorporates by reference all preceding paragraphs of its answer as if fully set forth here. This paragraph contains conclusions of law, including statements regarding statutory provisions and judicial decisions, with regard to the applicable statute of limitations, and no response is required. To the extent a response is required, ADMIT that 28 U.S.C. § 2462 is the applicable statute of limitations, but DENY that this paragraph sets forth a complete and accurate description of its operation and relevant caselaw. The FEC is without information sufficient to admit or deny the factual allegations in this paragraph.

112-115. These paragraph numbers were omitted from plaintiffs’ complaint and so no response is required.

116. Commission incorporates by reference all preceding paragraphs of its answer as if fully set forth here.

117. DENY.

118. This paragraph describes portions of the General Counsel's Reports, which speak for themselves, and so no response is required. To the extent a response is required, ADMIT that OGC concluded that in 2010 CHGO spent at least \$4,059,784.33 on advertisements that were either independent expenditures or electioneering communications: at least \$2,933,631.34 on ads containing express advocacy and at least \$1,126,153 on electioneering-communication ads. Further ADMIT that CHGO did not register as a political committee or file reports with the FEC.

119-123. DENY.

124. The paragraph contains legal conclusions and legal argument to which no response is required. To the extent a response is required, ADMIT that treasurers have legal duties under FECA and that they may be liable in their personal capacities for FECA violations in certain circumstances, but DENY that the Commission's decisions in this matter were contrary to law.

125. This paragraph consists of legal conclusions and plaintiffs' vague characterizations regarding "possible FEC enforcement for violations," to which no response is required.

126. The paragraph contains legal conclusions and legal argument to which no response is required. To the extent a response is required, this paragraph is DENIED because it is predicated on the counterfactual premise that CHGO was a registered political committee.

127. The paragraph contains legal conclusions and legal argument to which no response is required. To the extent a response is required, the Commission is without information sufficient to admit or deny the paragraph.

128-129. DENY.

**REQUESTED RELIEF**

1-4. No response is required to Paragraphs 1 through 4 of the plaintiffs' requested relief, but plaintiffs are entitled to none of the relief they request.

Respectfully submitted,

Daniel A. Petalas (D.C. Bar No. 467908)  
Acting General Counsel  
dpetalas@fec.gov

Lisa J. Stevenson (D.C. Bar No. 457628)  
Deputy General Counsel  
lstevenson@fec.gov

Kevin Deeley  
Acting Associate General Counsel  
kdeeley@fec.gov

Harry J. Summers  
Assistant General Counsel  
hsummers@fec.gov

/s/ Greg J. Mueller  
Greg J. Mueller (D.C. Bar No. 462840)  
Jacob S. Siler  
Attorneys  
gmueller@fec.gov  
jsiler@fec.gov

COUNSEL FOR DEFENDANT  
FEDERAL ELECTION COMMISSION  
999 E Street, N.W.  
Washington, DC 20463  
(202) 694-1650

February 12, 2016