

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

GARCIA FOR CONGRESS and SWATI PATEL,)	
)	
Plaintiffs,)	Civ. No. 13-2401-K
)	
v.)	
)	ANSWER
FEDERAL ELECTION COMMISSION,)	
)	
Defendant.)	

**DEFENDANT FEDERAL ELECTION COMMISSION’S ANSWER
TO PLAINTIFFS’ ORIGINAL COMPLAINT**

Defendant Federal Election Commission (“FEC” or “Commission”), through its undersigned counsel, hereby answers the Original Complaint filed by Plaintiffs Garcia for Congress and Swati Patel (hereinafter “Garcia”) as follows:

GENERAL DENIAL

Any allegation or part of an allegation not specifically responded to below is denied.

SPECIFIC DENIALS AND RESPONSES

The Commission responds as follows to the numbered paragraphs of the Original Complaint:

1. Plaintiffs’ demand for a trial by jury on all issues “triable to a jury” requires no response; to the extent a response is required, the Commission denies that a trial by jury is permissible in this case.

2. This paragraph contains plaintiffs' characterization of their Original Complaint, and to the extent Plaintiffs allege that the FEC has acted illegally, the paragraph is denied.

3. Admit.

4. Admit that this Court has jurisdiction to review the Commission's underlying administrative determination challenged in this case.

5. Admit.

6. Admit.

7. The Commission admits the first three sentences in this paragraph. In response to the fourth sentence of this paragraph, the Commission denies that plaintiffs filed the required disclosures in accordance with their legal obligations under the Federal Election Campaign Act ("the Act"); admits that plaintiffs responded to the Commission's reason-to-believe finding; and admits that the Commission declined to modify that finding or the civil penalty that was calculated in accordance with the applicable Commission regulations. The Commission admits the fifth sentence of this paragraph. The Commission further admits plaintiffs' allegation in the sixth sentence of this paragraph that this Court has jurisdiction to review the Commission's underlying administrative determination challenged in this case.

8. Deny.

9. Deny.

10. Deny.

11. The Commission lacks sufficient information regarding which "incumbent United States Senators, Congressmen and Congresswomen" and what alleged-but-unspecified reporting violations and/or penalties plaintiffs refer to in the first sentence of this paragraph to enable it to respond to such generalized allegations. The Commission likewise lacks sufficient information

regarding plaintiffs' allegations in the fourth sentence of this paragraph about what unspecified "[l]egal commentators have noted" to enable it to respond to such generalized allegations. The Commission denies that the allegations in the second and third sentences of this paragraph — which appear to relate to a ten-year-old, unrelated enforcement matter that was investigated and conciliated outside of the administrative-fines statutory scheme governing the Commission's determination in this case — identify an "example" in which the Commission "assessed a much smaller penalty or fine." The Commission further denies that such allegations are "a factor for this Court to assess in weighing the deference due to the final determination in this case." To the extent this paragraph otherwise alleges that the Commission's final determination in this case was unreasonable or contrary to law, or that the Commission's construction of the relevant statutes and regulations was factually or legally flawed or otherwise contrary to Congress's legislative intent, those allegations are denied. The Commission further denies the last sentence of this paragraph.

12. The Commission admits that Plaintiffs are entitled to judicial review of its administrative findings. The remainder of this paragraph is denied.

13. The Commission denies that Plaintiffs are entitled to any dismissal or modification of the Final Determination, or any other relief.

No response is required to Plaintiffs' prayer for relief, but the Commission denies that this Court should grant any relief to Plaintiffs.

GENERAL DENIAL AND AFFIRMATIVE DEFENSE

1. The Original Complaint fails to state a claim on which relief can be granted.

Respectfully submitted,

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September 18, 2013

* *Counsel's pro hac vice applications (Docket Nos. 9-12) and the Commission's motion for waiver of fees and the local counsel requirement in Local Rule 83.10 (Docket No. 8) are pending.*

CERTIFICATE OF SERVICE

I, Benjamin A. Streeter III, electronically submitted the foregoing document with the Clerk of the Court for the Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

Dated: September 18, 2013


Erin Chlopak