

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
LIBERTARIAN NATIONAL)	
COMMITTEE, INC.,)	
)	Civ. No. 16-121 (BAH)
Plaintiff,)	
)	
v.)	
)	
FEDERAL ELECTION COMMISSION,)	ANSWER
)	
Defendant.)	
_____)	

**DEFENDANT FEDERAL ELECTION COMMISSION’S ANSWER AND
AFFIRMATIVE DEFENSES**

Defendant Federal Election Commission (“FEC” or “Commission”) responds to the Complaint filed by plaintiff Libertarian National Committee, Inc. (“LNC”) as follows:

GENERAL DENIAL

Any allegation not specifically responded to below is DENIED.

SPECIFIC DENIALS AND RESPONSES

The six unnumbered paragraphs directly under the heading “Introduction” summarize LNC’s complaint and contain conclusions of law, and so no response is required. DENY that the cited provisions of the Federal Election Campaign Act, 52 U.S.C. §§ 30101-146 (“FECA”), are unconstitutional. The Commission responds as follows to the numbered paragraphs of the Complaint:

1. ADMIT that LNC is the national committee of the Libertarian Party of the United States and that LNC maintains an office in Alexandria, Virginia. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph.

2. ADMIT that the Commission is the federal government agency charged with the administration and civil enforcement of FECA.

3. DENY that this Court has subject-matter jurisdiction over this matter. DENY that the matter should be immediately certified to the United States Court of Appeals for the District of Columbia Circuit for consideration *en banc* pursuant to 52 U.S.C. § 30110. It is the responsibility of a district court in matters brought under section 30110 to create a factual record and determine which constitutional claims, if any, merit certification to the Court of Appeals.

4. ADMIT that venue is proper in this Court.

5. This paragraph contains LNC's characterization of a federal statute, which speaks for itself.

6. This paragraph contains LNC's characterization of a federal statute, which speaks for itself, and contains conclusions of law, to which no response is required.

7. This paragraph contains LNC's characterization of a federal statute, which speaks for itself, and contains conclusions of law, to which no response is required.

8. ADMIT that the FEC has taken the position in this Court that FECA does not forbid "a national party committee like LNC to solicit a bequest that exceeds FECA's annual contribution limits, so long as that party committee accepts or receives funds from that bequest only in amounts that comply with FECA's annual contribution limits and in a manner consistent with the Commission's relevant regulations and advisory opinions." Def. FEC's Answer and Affirmative Defense to the First Am. Compl. ¶ 2, *Libertarian Nat'l Comm. v. FEC*, 1:11-cv-562, ECF No. 15 (D.D.C. June 13, 2011). This paragraph contains conclusions of law, to which no response is required. The remainder of this paragraph is DENIED.

9. ADMIT that the annual limit on contributions to national party committees for 2015-2016 was \$33,400, except that a \$100,200 limit applied to contributions to each separate, segregated account of a national party committee which is used solely to defray expenses incurred with respect to (1) a presidential nominating convention; (2) the construction, purchase, renovation, operation, and furnishing of one or more headquarters buildings of the party; or (3) the preparation for and the conduct of election recounts and contests and other legal proceedings. 52 U.S.C. § 30116(a)(9). ADMIT that these limits are indexed for inflation.

10. ADMIT that the term “testamentary estate” does not appear in FECA’s definition of the term “person” contained in 52 U.S.C. § 30101(11). ADMIT that the FEC has interpreted 52 U.S.C. § 30116(a)(1) to apply to bequests from testamentary estates.

11. This paragraph contains conclusions of law, to which no response is required, and LNC’s characterizations of the Commission’s advisory opinions, which speak for themselves. To the extent a response is required, ADMIT that the Commission has issued advisory opinions concluding that a political committee of a national party may not accept a distribution from a testamentary estate that exceeds the federal contribution limit applicable to living individuals, and further concluded that the committee may exercise no control over funds from a single bequest in excess of those annual contribution limits.

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

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

14. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph also contains conclusions of law, to which no response is required.

15. Admit that LNC reported to the Commission receiving contributions from Joseph Shaber totaling \$750 in 2011 and \$1,200 in 2012. The Commission is otherwise without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

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

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

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

19. ADMIT that LNC reported receiving a contribution from Joseph Shaber in the amount of \$33,400 in 2015. DENY that LNC could not accept the entire Shaber bequest at once. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph.

20. This paragraph contains LNC's characterization of an Escrow Agreement, which speaks for itself. ADMIT that the LNC has reported to the Commission receiving a contribution from Joseph Shaber in the amount of \$33,400 in 2016. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph.

21. The Commission incorporates by reference all responses contained in the preceding paragraphs.

22. DENY that a promise to provide funds to a political party by bequest cannot create actual or apparent corruption and cannot be used to circumvent contribution limits to political candidates. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph. This paragraph also contains conclusions of law, to which no response is necessary.

23. Admit that no Libertarian candidate has been elected to federal office since at least 1982. The Commission is otherwise without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

24. This paragraph contains conclusions of law, to which no response is necessary, and LNC's characterizations of judicial decisions, which speak for themselves.

25. This paragraph contains conclusions of law, to which no response is necessary, and LNC's characterizations of a judicial decision, which speaks for itself.

26. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph also contains conclusions of law, to which no response is necessary.

27. DENY that the application of 52 U.S.C. §§ 30116(a)(1)(B) and 30125 to decedents' bequests violates the First Amendment. This paragraph also contains conclusions of law, to which no response is necessary. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

28. The Commission incorporates by reference all responses contained in the preceding paragraphs.

29. DENY that 52 U.S.C. §§ 30116 and 30125 discriminate based on the content of LNC's speech. This paragraph also contains conclusions of law, to which no response is

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

30. This paragraph contains conclusions of law, to which no response is necessary. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

31. DENY.

32. The Commission incorporates by reference all responses contained in the preceding paragraphs.

33. This paragraph contains conclusions of law, to which no response is necessary. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph.

34. DENY.

PRAYER FOR RELIEF

No response is required, but the relief requested by LNC should be denied.

AFFIRMATIVE DEFENSES

1. The Court lacks subject-matter jurisdiction over plaintiff's claims.
2. Count I of the Complaint is barred by issue preclusion in light of *Libertarian Nat'l Comm. v. FEC*, 930 F. Supp. 2d 154 (D.D.C. 2013), *aff'd in relevant part*, No. 13-5094, 2014 WL 590973 (D.C. Cir. Feb. 7, 2014) (unpublished disposition).

Respectfully submitted,

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