

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

_____)	
CHRIS RUFER, <i>et al.</i> ,)	
)	
Plaintiffs,)	Civ. No. 14-837 (CRC)
)	
v.)	
)	
FEDERAL ELECTION COMMISSION,)	ANSWER
)	
Defendant.)	
_____)	

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

Defendant Federal Election Commission (“FEC” or “Commission”) submits this answer to plaintiffs’ Complaint (Docket No. 1). Any allegation not specifically responded to below, including allegations that appear in headings, is DENIED. The Commission responds as follows:

1. This paragraph contains plaintiffs’ characterizations of unspecified judicial decisions and conclusions of law concerning the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431-57 (“FECA”), to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize portions of the holdings in *Buckley v. Valeo*, 424 U.S. 1 (1976), and *Citizens United v. FEC*, 558 U.S. 310 (2010), which speak for themselves. The phrase “maximum constitutional protection” is plaintiffs’ characterization and is not a quote from these judicial opinions.

2. This paragraph contains plaintiffs’ characterizations of an unspecified judicial decision and conclusions of law, to which no response is required. To the extent a response is

required: Admit that this paragraph appears to characterize portions of holdings in *Carey v. FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011), which speaks for itself.

3. The first sentence of this paragraph contains plaintiffs' characterizations of a judicial decision, to which no response is required. To the extent a response is required: Admit that the first sentence of this paragraph appears to characterize the holding in *Colorado Republican Federal Campaign Committee v. FEC*, 518 U.S. 604 (1996) ("*Colorado I*"), which speaks for itself. Deny the second and third sentences of this paragraph.

4. Admit that this is a constitutional challenge to a federal statute and that this Court has jurisdiction over the claims of the Libertarian Party of Indiana pursuant to 28 U.S.C. § 1331 and 28 U.S.C. §§ 2201-02. Pursuant to *Wagner v. FEC*, 717 F.3d 1007 (D.C. Cir. 2013), jurisdiction over the claims of plaintiffs Chris Rufer and Libertarian National Congressional Committee Inc. exists only to the extent provided in 2 U.S.C. § 437h.

5. Deny that this Court has jurisdiction under the Bipartisan Campaign Reform Act ("BCRA"), Pub. L. No. 107-155, § 403(a)(1), 116 Stat. 81, 113-14, because plaintiffs' claims are neither substantial nor justiciable under that special review provision. Admit that venue is proper under 28 U.S.C. § 1391(e)(1).

6. Deny.

7. Admit.

8. Admit the first sentence of this paragraph. The Commission is without knowledge or information sufficient to admit or deny the second sentence of this paragraph.

9. Admit that plaintiff Chris Rufer has contributed the maximum amounts allowed for 2014 (1) to the Libertarian National Congressional Committee and (2) to the federal political committee established by the Libertarian Party of Indiana.

10. Admit.

11. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441a(a)(1)(B) limits the amount that persons may contribute annually to national political party committees and the current limit is \$32,400. *Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold*, 78 Fed. Reg. 8530-32 (Feb. 6, 2013).

12. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441a(a)(1)(D) limits the amount that persons may contribute annually to federal political committees established by state and local political party committees, and the limit is \$10,000.

13. This paragraph merely defines a term used in the Complaint and therefore no response is required.

14. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441i(a) prohibits national party committees and their officers and agents from soliciting or receiving contributions, or spending funds, that are not subject to the limitations, prohibitions, and reporting requirements of FECA.

15. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that (subject to certain exceptions in 2 U.S.C. § 441i(b)(2)) 2 U.S.C. § 441i(b)(1) prohibits state and local party committees and their officers and agents from spending or disbursing money for federal election activity, as defined by 2 U.S.C. § 431(20), unless those funds are subject to the limitations, prohibitions, and reporting requirements of FECA.

16. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441i(c) prohibits state and local party committees and their officers and agents from spending or disbursing money for fundraising for federal election activity, as defined by 2 U.S.C. § 431(20), unless those funds are subject to the limitations, prohibitions, and reporting requirements of FECA.

17. This paragraph merely defines a term used in the Complaint and therefore no response is required.

18. This paragraph contains plaintiffs' characterizations of FECA and judicial decisions, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize portions of FECA and the holding in *Buckley*, 424 U.S. 1, and subsequent cases, which speak for themselves. The Commission notes that 2 U.S.C. § 431(17) defines "independent expenditure" as an expenditure "(A) expressly advocating the election or defeat of a clearly identified candidate; and (B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents." The phrase "maximum constitutional protection" is plaintiffs' characterization and is not a quote from these judicial opinions.

19. This paragraph contains plaintiffs' characterizations of judicial decisions and conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize portions of the holding in *Buckley*, 424 U.S. 1, and subsequent cases, which speak for themselves.

20. This paragraph contains plaintiffs' characterizations of judicial decisions and conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize portions of the holding in *McCutcheon v. FEC*,

134 S. Ct. 1434 (2014), and other cases, which speak for themselves. The Commission denies that *Citizens United*, 558 U.S. 310, is about political contributions.

21. This paragraph contains conclusions of law to which no response is required. The first sentence of this paragraph is vague and ambiguous, as it does not identify which courts it is referring to, and therefore the Commission is without knowledge or information sufficient to admit or deny the plaintiffs' characterization of these judicial decisions. The Commission notes that 2 U.S.C. § 431(17) defines "independent expenditure" as an expenditure "(A) expressly advocating the election or defeat of a clearly identified candidate; and (B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents." The second sentence of this paragraph contains plaintiffs' characterizations of unspecified judicial decisions, to which no response is required. To the extent a response is required: Admit that the second sentence of this paragraph appears to characterize portions of the holding in *Citizens United*, 558 U.S. 310 which speaks for itself.

22. This paragraph contains plaintiffs' characterizations of judicial decisions and conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize portions of the holding in *Buckley*, 424 U.S. 1, and subsequent cases, including *FEC v. Nat'l Conservative Political Action Comm.*, 470 U.S. 480 (1985), which speak for themselves.

23. This paragraph contains plaintiffs' characterizations of unspecified judicial decisions and conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize the holding in *Carey*, 791 F. Supp. 2d 121, which speaks for itself.

24. This paragraph contains plaintiffs' characterizations of a judicial decision and conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize the holding in *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010), which speaks for itself.

25. This paragraph contains plaintiffs' characterizations of a judicial decision and conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize the holding in *Carey*, 791 F. Supp. 2d 121, which speaks for itself.

26. This paragraph contains plaintiffs' characterizations of a judicial decision and conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph accurately quotes the opinion in *Carey*, 791 F. Supp. 2d 121, 135, with the words "soft money" omitted and replaced by ellipses and other alterations that are identified by brackets.

27. This paragraph contains plaintiffs' characterizations of a judicial decision and conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize the holding in *EMILY's List v. FEC*, 581 F.3d 1 (D.C. Cir. 2009), which speaks for itself.

28. This paragraph contains plaintiffs' characterizations of unspecified judicial decisions and conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize the holding in *Carey*, 791 F. Supp. 2d 121, which speaks for itself.

29. Deny.

30. This paragraph contains plaintiffs' characterizations of legal claims in its own Complaint, to which no response is required. To the extent a response is required: Deny that the conduct described in this paragraph would give political parties the First Amendment right to accept unlimited contributions.

31. This paragraph contains plaintiffs' characterizations of a judicial decision and conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize the holding in *Colorado I*, 518 U.S. 604, which speaks for itself.

32. This paragraph contains plaintiffs' characterizations of a judicial decision and conclusions of law, to which no response is required. To the extent a response is required: Admit that the language identified in quotation marks appeared in the plurality opinion in *Colorado I*, 518 U.S. 604, which speaks for itself.

33. This paragraph contains plaintiffs' characterizations of a judicial decision and conclusions of law, to which no response is required. To the extent a response is required: Deny that subsection a accurately characterizes the Commission's regulations defining coordination. Deny subsection b. Admit that the remainder of this paragraph appears to characterize portions of the holding from the plurality opinion in *Colorado I*, 518 U.S. 604, which speaks for itself.

34. This paragraph contains plaintiffs' characterizations of a judicial decision and conclusions of law, to which no response is required. To the extent a response is required: Deny that the paragraph accurately summarizes the plurality opinion in *Colorado I*, 518 U.S. 604.

35. Deny, except the portion of this paragraph discussing the amount of independent expenditures a political party makes, which appears to characterize portions of the holding from the plurality opinion in *Colorado I*, 518 U.S. 604, which speaks for itself.

36. Deny the introductory sentence of this paragraph.

a. Admit the first sentence of subsection a. The second sentence of subsection a contains plaintiffs' characterizations of a judicial decision, to which no response is required. To the extent a response is required: Deny that the opinion in *McCutcheon*, 134 S. Ct. 1434 speaks to the issue of contributions made to an independent expenditure account maintained by a political party.

b. Admit the first sentence of subsection b. The second sentence of subsection b contains plaintiffs' characterizations of a judicial decision, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize portions of the holdings in *McCutcheon*, 134 S. Ct. 1434, and *Citizens United*, 558 U.S. 310, which speak for themselves.

c. The first sentence of subsection c contains plaintiffs' characterizations of legal claims in its own Complaint, to which no response is required. To the extent a response is required: The first sentence of subsection c is vague and ambiguous, as it does not define the term "constitutional equivalent," and therefore the Commission is without knowledge or information sufficient to admit or deny the plaintiffs' characterization. Admit the second sentence of subsection c.

d. Deny subsection d.

37. Deny the first sentence of this paragraph. The remainder of this paragraph contains plaintiffs' characterizations of legal claims in its own Complaint, to which no response is required. To the extent a response is required: Deny.

38. Admit.

39. Admit.

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

41. This paragraph contains plaintiffs' characterizations of legal claims in its own Complaint, to which no response is required. To the extent a response is required: The Commission is without knowledge or information sufficient to admit or deny this paragraph, except deny that the Libertarian National Campaign Committee, Inc. ("LNCC") has a First Amendment right to accept unlimited contributions.

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

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

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

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

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

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

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

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

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

51. The Commission is without knowledge or information sufficient to admit or deny this paragraph, except deny that any “prophylactic safeguards” would justify striking down the provisions of FECA plaintiffs challenge in this case.

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

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

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

55. Admit.

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

57. Admit.

58. This paragraph contains plaintiffs’ characterizations of legal claims in its own Complaint, to which no response is required. To the extent a response is required: The Commission is without knowledge or information sufficient to admit or deny this paragraph, except deny that the Libertarian Party of Indiana (“LPIN”) has a First Amendment right to accept unlimited contributions.

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

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

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

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

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

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

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

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

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

68. The Commission is without knowledge or information sufficient to admit or deny this paragraph, except deny that any “prophylactic safeguards” would justify striking down the provisions of FECA plaintiffs challenge in this case.

69. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441a(a)(1)(B) limits contributions by individuals to national political party committees and the current annual limit is \$32,400.

70. Admit.

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

72. Admit that LNCC has accepted Rufer's \$32,400 contribution. The Commission is without knowledge or information sufficient to admit or deny the remainder of this paragraph.

73. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441a(a)(1)(B) limits contributions by individuals to national political party committees such as LNCC and the current limit is \$32,400 for all purposes. As a state party, LPIN is prohibited by 2 U.S.C. § 441a(a)(1)(D) from accepting more than \$10,000 annually from a contributor for its federal political committee or for federal election activity as defined by 2 U.S.C. § 431(20).

74. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441i(a) prohibits national party committees and their officers and agents from soliciting or receiving contributions, or spending funds, that are not subject to the limitations, prohibitions, and reporting requirements of FECA.

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

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

77. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441a(a)(1)(D) limits contributions by individuals to federal committees established by state party committees, and that the annual limit is \$10,000.

78. Admit that Rufer has contributed the maximum allowed for 2014 to LPIN's federal political committee.

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

80. Admit that LPIN has accepted Rufer's \$10,000 contribution. The Commission is without knowledge or information sufficient to admit or deny the remainder of this paragraph.

81. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that LPIN is prohibited by 2 U.S.C. § 441a(a)(1)(D) from accepting more than \$10,000 annually from an individual contributor for its federal political committee or for federal election activity as defined by 2 U.S.C. § 431(20).

82. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441i(b)-(c) prohibits state and local party committees and their officers and agents from soliciting or receiving contributions for federal election activity as defined by 2 U.S.C. § 431(20) or spending funds on such activity that are not subject to the limitations, prohibitions, and reporting requirements of FECA.

83. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441i(c) prohibits the LPIN and other state and local party committees and their officers and agents from spending or disbursing money in connection with fundraising for federal election activity as defined by 2 U.S.C. § 431(20) unless those funds are subject to the limitations, prohibitions, and reporting requirements of FECA.

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

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

86. This paragraph re-alleges and incorporates by reference the allegations contained in paragraphs 1-85 of plaintiffs' Complaint, and the Commission therefore incorporates by reference its responses to those paragraphs.

87. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441a(a)(1)(B) limits contributions by individuals to national political parties.

88. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441a(a)(1)(D) limits contributions by individuals to state political party committees for the purpose of federal election activity as defined by 2 U.S.C. § 431(20).

89. Deny.

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

91. Deny.

92. Deny.

93. Deny.

94. This paragraph re-alleges and incorporates by reference the allegations contained in paragraphs 1-93 of plaintiffs' Complaint, and the Commission therefore incorporates by reference its responses to those paragraphs.

95. Deny.

96. This paragraph contains plaintiffs' characterizations of a judicial decision, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize portions of the holding in *McConnell v. FEC*, 540 U.S. 93, 154 (2003) which speaks for itself. To the extent the paragraph contains a factual allegation about minor and third parties, deny.

97. Deny.

98. The Commission is without knowledge or information sufficient to admit or deny the first sentence of this paragraph. The third sentence in part contains plaintiffs' characterizations of a judicial decision, to which no response is required. To the extent a response is required: Admit that a portion of this sentence appears to characterize portions of the holding in *McConnell*, 540 U.S. at 154, which speaks for itself. Deny the remainder of this paragraph.

99. Deny.

100. Deny.

101. Deny.

102. Deny.

103. This paragraph re-alleges and incorporates by reference the allegations contained in paragraphs 1-102 of plaintiffs' Complaint, and the Commission therefore incorporates by reference its responses to those paragraphs.

104. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441i(a) prohibits national party committees and their officers and agents from soliciting or receiving contributions, or spending funds, that are not subject to the limitations, prohibitions, and reporting requirements of FECA.

105. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that (subject to certain exceptions in 2 U.S.C. § 441i(b)(2)), 2 U.S.C. § 441i(b)(1) prohibits state and local party committees and their officers and agents from spending or disbursing money for federal election activity, as defined by 2 U.S.C. § 431(20), unless those funds are subject to the limitations, prohibitions, and reporting requirements of FECA.

106. This paragraph is a statement of law to which no response is required. To the extent a response is required: Admit that 2 U.S.C. § 441i(c) prohibits state and local party committees and their officers and agents from spending or disbursing money in connection with fundraising for federal election activity, as defined by 2 U.S.C. § 431(20), unless those funds are subject to the limitations, prohibitions, and reporting requirements of FECA.

107. This paragraph contains plaintiffs' characterizations of legal claims in its own Complaint and conclusions of law, to which no response is required. To the extent a response is required: Deny the first sentence of this paragraph. Admit that 2 U.S.C. § 441i(a) prohibits national party committees and their officers and agents from soliciting or receiving contributions, or spending funds, that are not subject to the limitations, prohibitions, and reporting requirements of FECA. Admit that (subject to certain exceptions in 2 U.S.C. § 441i(b)(2)), 2 U.S.C. § 441i(b)(1) prohibits state party committees and their officers and agents from spending or disbursing money for federal election activity, as defined by 2 U.S.C. § 431(20), unless those funds are subject to the limitations, prohibitions, and reporting requirements of FECA. Admit that 2 U.S.C. § 441i(c) prohibits state party committees and their officers and agents from spending or disbursing money in connection with fundraising for federal election activity, as

defined by 2 U.S.C. § 431(20), unless those funds are subject to the limitations, prohibitions, and reporting requirements of FECA.

108. Deny.

109. Deny.

110. Deny.

111. Deny.

112. This paragraph re-alleges and incorporates by reference the allegations contained in paragraphs 1-111 of plaintiffs' Complaint, and the Commission therefore incorporates by reference its responses to those paragraphs.

113. Deny.

114. This paragraph contains plaintiffs' characterizations of a judicial decision and conclusions of law, to which no response is required. To the extent a response is required: Admit that a portion of this paragraph appears to characterize portions of the holding in *McConnell*, 540 U.S. 93, which speaks for itself. To the extent the paragraph contains a factual allegation about minor and third parties, deny.

115. Deny.

116. The Commission is without knowledge or information sufficient to admit or deny the first sentence of this paragraph. The third sentence in part contains plaintiffs' characterizations of a judicial decision, to which no response is required. To the extent a response is required: Admit that a portion of this sentence appears to characterize portions of the holding in *McConnell*, 540 U.S. 93, which speaks for itself. Deny the remainder of this paragraph.

117. Deny.

118. Deny.

119. Deny.

120. Deny.

121. Deny.

THE COMPLAINT'S PRAYER FOR RELIEF

1-6. Plaintiffs are not entitled to the relief requested or to any other relief.

**DEFENDANT FEDERAL ELECTION COMMISSION'S
AFFIRMATIVE DEFENSE**

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

Respectfully submitted,

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