

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

<hr/>		)	
REPUBLICAN PARTY OF	)		
LOUISIANA, <i>et al.</i> ,	)		
	)		
Plaintiffs,	)	Civ. No. 15-1241 (CRC)	
	)		
v.	)		
	)		
FEDERAL ELECTION COMMISSION,	)	ANSWER	
	)		
Defendant.	)		
<hr/>		)	

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

Defendant Federal Election Commission (“FEC” or “Commission”) submits this Answer to plaintiffs’ Verified Complaint for Declaratory and Injunctive Relief (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 legal claims in their own Complaint, to which no response is required.

2. This paragraph contains plaintiffs’ conclusions of law, to which no response is required. To the extent a response is required: Deny that this Court has jurisdiction under the Bipartisan Campaign Reform Act of 2002 (“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. Deny that BCRA §§ 403(a)(4) and (d)(2) are applicable. Admit that the paragraph accurately quotes from the statute, with identified alterations and omissions, except that plaintiffs have substituted the word “elect” for “elects” in the first quotation and the word “this” for “the” in both the first and the second quotations.

3. Deny that this Court has jurisdiction under BCRA § 403 because plaintiffs' claims are neither substantial nor justiciable. Admit that the paragraph accurately quotes BCRA § 403, with certain provisions omitted and replaced by ellipses.

4. Admit that this Court has jurisdiction pursuant to 28 U.S.C. § 1331. Deny that 28 U.S.C. §§ 2201-02 grant the Court jurisdiction. Deny that this Court has jurisdiction under BCRA § 403 because plaintiffs' claims are neither substantial nor justiciable.

5. Admit that venue is proper under 28 U.S.C. § 1391(e)(1). Deny that this Court has jurisdiction under BCRA § 403 because plaintiffs' claims are neither substantial nor justiciable.

6. This paragraph contains plaintiffs' conclusions of law, 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 the first sentence of this paragraph. As to the second sentence, admit that Republican Party of Louisiana ("LAGOP") has registered with the Commission as a "State Committee" under 52 U.S.C. § 30101(15) (as well as 11 C.F.R. 100.14(a)), and a "Party committee" at the "State . . . level" under 11 C.F.R. § 100.5(e)(4) (rather than 11 C.F.R. § 100.5(d)(4), an apparently mistaken citation by plaintiffs). Admit that 11 C.F.R. § 300.30(c), cited in plaintiffs' accompanying footnote 1, does refer to political party "organizations," a term Commission regulations do use in some places to refer to entities which are not "political committees" under the Act. *See also* 11 C.F.R. § 300.2(d) (defining a "disbursement" as including payments by both a "political committee" and "an organization that is not a political committee"). 11 C.F.R. § 300.30(c) sets out the scope of 11 C.F.R. §§ 300.30-37, the post-BCRA regulations that apply to state, district and local party committees and organizations, but does not restate the definitions of "political committee" or "party committee,"

as plaintiffs' footnote could be read to suggest. The Commission is without knowledge or information sufficient to admit or deny the third and fourth sentences of this paragraph.

7. This paragraph contains plaintiffs' conclusions of law, 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, other than to admit that the Jefferson Parish Republican Executive Committee has not registered with the Commission as a "political committee," and to note that Plaintiffs apparently were mistaken in their citation to the regulatory definition of a "Party committee." That definition is at 11 C.F.R. § 100.5(e)(4) rather than 11 C.F.R. § 100.5(d)(4).

8. This paragraph contains plaintiffs' conclusions of law, 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.

9. Admit that the Commission is the independent agency of the United States government with statutory authority over the administration, interpretation, and civil enforcement of the Federal Election Campaign Act, 52 U.S.C. §§ 30101-30146 ("FECA"), including BCRA. *See* 52 U.S.C. §§ 30106(b)(1), 30107(a)(7)-(8), 30109, 30111(a)(8).

10. The footnote accompanying the heading that precedes this paragraph characterizes a section of plaintiffs' own complaint, to which no response is required, and quotes the transcript of an oral argument, which speaks for itself. 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, other than the noted omissions and alterations, this paragraph accurately *quotes* the per curiam district court opinion in *McConnell v. FEC*, 251 F. Supp. 2d 176 (D.D.C. 2003), which speaks for itself.

11. 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 per curiam district court *opinion in McConnell*, 251 F. Supp. 2d at 198 n.13, which speaks for itself, except that the first citation in the passage is not "106.5(a)(1)(i) (1991)," but rather "106.5(a)(2)(i) (1991)."

12. 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, other than the noted omissions and alterations, this paragraph accurately quotes the per curiam district court opinion in *McConnell*, 251 F. Supp. 2d at 198, except in three respects: 1) the word "the" should appear between "disclose" and "details"; 2) the words "including donors" should be bracketed as they do not appear in the quote; and 3) the word "exempt" should be "exempted."

13. This paragraph contains plaintiffs' characterizations of a judicial decision and an FEC Advisory Opinion, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize the Commission's Advisory Opinion 1995-25 (RNC), which speaks for itself. Admit that this paragraph accurately quotes Advisory Opinion 1995-25 (RNC), except that the words "as made" are omitted between "considered" and "in connection."

14. This paragraph contains plaintiffs' characterizations of an FEC Advisory Opinion, to which no response is required. To the extent a response is required: Admit that Republican and Democratic parties, at national and state levels, ran purported "issue" advertisements that featured federal candidates after the issuance of Advisory Opinion 1995-25 (RNC). Admit that

this paragraph accurately quotes the per curiam district court opinion in *McConnell*, 251 F. Supp. 2d at 199-200, which speaks for itself.

15. This paragraph and its accompanying footnote contain plaintiffs' characterizations of BCRA, to which no response is required. To the extent a response is required: Deny, to the extent the paragraph alleges that Congress (a) defined federal election activity to include all "voter mobilization, party promotion, and issue advocacy"; (b) banned state and local committees from using any nonfederal funds for federal election activity; (c) prohibited state and local committees from allocating fundraising costs when raising nonfederal funds jointly with federal funds that are to be used for federal election activity, 11 C.F.R. § 300.32(a)(3); and (d) required reporting of all federal election activity. Admit that federal election activity may not be allocated pursuant to 11 C.F.R. § 106.7(b). Admit the statement in footnote four that some allocation between Levin funds and federal funds is permissible pursuant to 11 C.F.R. § 300.33. The Commission is without knowledge or information sufficient to admit or deny the footnote's statements regarding plaintiffs' conduct. Deny that the use of Levin funds is unduly complex, burdensome, or restrictive.

16. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes 52 U.S.C. § 30101(20), which speaks for itself.

17. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes 52 U.S.C. § 30101(21)-(24), which speak for themselves.

18. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes 11 C.F.R. § 100.25, which speaks for itself.

19. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the block quotation in the paragraph accurately quotes 11 C.F.R. § 100.26, which speaks for itself. Admit that the “general public political advertising” portion of the public communication definition does “not include communications over the Internet, except for communications placed for a fee on another person’s Web site.” The Commission is without knowledge or information sufficient to admit or deny the footnote’s statements regarding plaintiffs’ conduct.

20. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the block quotation in the paragraph accurately quotes 11 C.F.R. § 100.27, which speaks for itself, except that the words “substantially similar” should be italicized. Admit that the definition of mass mailing “does not include electronic mail or Internet communications transmitted over telephone lines.”

21. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the block quotation in the paragraph accurately quotes 11 C.F.R. § 100.28, which speaks for itself, except that the words “substantially similar” should be italicized. Admit that the definition of telephone bank “does not include electronic mail or Internet communications transmitted over telephone lines.”

22. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: 11 C.F.R. § 100.24(b)(3) speaks for itself. Regarding

plaintiffs' use of "[non-Internet]" in their characterization of the regulation, admit that section 100.24(b)(3) incorporates "Public communication" as that term is used in 11 C.F.R. § 100.26.

23. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes 11 C.F.R. § 100.24(a)(1), which speaks for itself.

24. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the block quotation in the paragraph accurately quotes 11 C.F.R. § 100.24(a)(2), which speaks for itself. Deny plaintiffs' broad statement that the regulation "*includes* Internet communications," because there is a de minimis exception to the scope of "Federal election activity" for certain online voter registration activities. *See* 11 C.F.R. § 100.24(c)(7).

25. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the block quotation in the paragraph accurately quotes 11 C.F.R. § 100.24(a)(3), which speaks for itself. Deny plaintiffs' broad statement that the regulation "*includes* Internet communications," because there is a de minimis exception to the scope of "Federal election activity" for certain online voter information activities. *See* 11 C.F.R. § 100.24(c)(7).

26. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the block quotation in the paragraph accurately quotes 11 C.F.R. § 100.24(a)(4), which speaks for itself. The Commission is without knowledge or information sufficient to admit or deny the reference to unspecified "Internet communications to 'acquir[e] information about potential voters.'"

27. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes 11 C.F.R. § 100.24(b)-(c), which speak for themselves.

28. Admit that the FEC publishes on its website the time frames when political party conduct is considered “Federal election activity” under 11 C.F.R. § 100.24(a)(1) for each state.

29. Admit.

30. Admit.

31. Admit.

32. This paragraph and the heading that precedes it contain conclusions of law, to which no response is required. To the extent a response is required: Admit that the block quotation in the paragraph accurately quotes 52 U.S.C. § 30125(b)(1), which speaks for itself. Deny that the limit at BCRA § 101(a) is a “ban.”

33. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes the FEC’s Local Party Activity Brochure (Oct. 2006, updated Jan. 2015 ([http://www.fec.gov/pages/brochures/local\\_party\\_activity\\_brochure.pdf](http://www.fec.gov/pages/brochures/local_party_activity_brochure.pdf)), which speaks for itself.

34. This paragraph and the heading that precedes it contain conclusions of law, to which no response is required. To the extent a response is required: Admit that the block quotation in the paragraph accurately quotes 52 U.S.C. § 30125(c), which speaks for itself. However, the text is misleading to the extent it implies that FEC regulations require a single method of paying fundraising costs when in fact section 300.32(a)(3) permits state and local committees to allocate fundraising costs when raising nonfederal funds jointly with federal funds



that are to be used for federal election activity, 11 C.F.R. § 300.32(a)(3), and permits the raising of Levin funds with Levin funds, 11 C.F.R. § 300.32(a)(4).

35. This paragraph and the heading that precedes it contain conclusions of law, to which no response is required. To the extent a response is required: Deny the statement in the footnote that “[a]ll federal election activity must be funded from a federal account registered and reporting as a ‘political committee,’” as well as the implication in the text that all political party organizations are “political committees” under FECA and must report monthly to the FEC. *See* 11 C.F.R. § 300.36 (describing “recordkeeping” requirements for a state and local committee “that is not a political committee” but makes disbursements for federal election activity, not reporting requirements); FEC, *Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money*, 67 Fed. Reg. 49064, 49103-04 (July 29, 2002) (“2002 Soft Money Rules”) (recognizing that “a political party organization that is not a political committee” does not “have reporting requirements under BCRA”); FEC, *Local Party Activity* (Oct. 2006, updated Jan. 2015), <http://www.fec.gov/pages/brochures/locparty.shtml> (“Local Party Brochure”) (explaining how “local party organizations not registered with the FEC” pay for federal election activity). Admit that, other than the noted alterations, the block quotation in the paragraph accurately quotes 52 U.S.C. § 30104(e), which speaks for itself.

36. This paragraph and the heading that precedes it contain conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the many noted alterations and omissions, the paragraph accurately quotes 11 C.F.R. § 300.30(b)(3)(iii) and 11 C.F.R. § 300.30(b)(3)(iv), which speak for themselves. However, the paragraph and its accompanying footnote are inaccurate to the extent that they suggest that committees are required to use federal accounts. To the contrary, 11 C.F.R. § 300.30(b)(1)

allows numerous types of nonfederal accounts, 11 C.F.R. § 300.30(b)(2) allows for Levin accounts, and 11 C.F.R. §§ 300.30(b)(3)(iii)(B) and (b)(4) permit allocation accounts, but all of these types of accounts are omitted from the quote and described as “not applicable” or “not at issue.” Furthermore, the quote from 11 C.F.R. § 300.30(b)(3)(iv) is misleading because: 1) that section only applies to payments made from a federal account, 2) the section does not define “in connection with,” despite the plaintiffs’ suggestion that it does, 3) the quotation omits the last part of the provision, which discusses transfer of nonfederal account money to the federal account, and 4) the quotation misrepresents the regulation by suggesting that it requires parties to pay for federal election activity from a federal account. Lastly, the accompanying footnote is misleading both because the reasonable accounting method described in 11 C.F.R. § 102.5(b)(2) is not limited to the use of Levin funds, but can be used by state and local party organizations that are not “political committees” under FECA, and because the footnote ignores the allocation accounts discussed at 11 C.F.R. § 300.30(b)(4), which can contain federal and nonfederal funds.

37. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the noted omissions, the paragraph accurately quotes 11 C.F.R. § 300.30(c) (with the exception of omitting the word “paragraphs” before “(c)(1)”) and 11 C.F.R. § 300.30(c)(1) (with the exception of adding the words “which must be” to the beginning of the quotation), which speak for themselves. The block quotation in this paragraph is inaccurate to the extent it suggests that the entire quotation is discussing all three alternative ways to use a federal account, when in fact the language quoted after the second ellipsis applies only to the first such option under 11 C.F.R. § 300.30(c)(1). Moreover, section 300.30(c)(1) does not define “federal account”; that term is defined at section 300.30(b)(3), a provision that does not use the “treated as a separate political committee” language or reference

mandatory monthly reporting as required under section 300.30(c)(1) for organizations choosing the federal-only option. *See also* 11 C.F.R. § 300.36(a) (describing reasonable accounting method for records of federal funds by non-political committees making disbursements for federal election activity; this section does not require such party organizations that are not “political committees” to file reports with the Commission). Deny that Levin accounts are “not at issue here.”

38. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: This paragraph is inaccurate, for reasons similar to those discussed in the response to No. 37, above, to the extent that it states that monthly reporting is required for any party organization engaged in federal election activity. *See* 11 C.F.R. § 300.36(c) (describing what entities must file reports); 2002 Soft Money Rules, 67 Fed. Reg. at 49103-04 (discussing how section 300.36 treats two types of entities — political committees under section 300.36(b) and non-political committees under § 300.36(a) — and noting that, under section 300.36(a), a state or local party organization “that has not qualified as a political committee” has no reporting requirements).

39. This paragraph and its accompanying footnote contain conclusions of law, to which no response is required. To the extent a response is required: Deny for a number of reasons, including the following. First, a “brief exhortation” incidental to a communication is not defined as federal election activity. 11 C.F.R. §§ 100.24(a)(2)(ii), (a)(3)(ii); *see also* FEC, *Definition of Federal Election Activity*, 75 Fed. Reg. 55257, 55261-62 (Sept. 10, 2010) (explaining that the voter registration exception applies regardless of medium and would include a brief incidental exhortation in an email); *id.* at 55264 (same, for get-out-the-vote exception). Second, the quotation from the Explanation and Justification is edited so as to completely change

the meaning. The full quotation explains that (1) non-de minimis costs for enumerated activity and (2) de minimis costs for non-enumerated activities must be paid for with Federal funds “or a mix of Federal and Levin funds, as appropriate.” 75 Fed. Reg. at 55266. Deny the statement in accompanying footnote 9. *See infra* ¶ 62.

40. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes 52 U.S.C. § 30101(4)(A), which speaks for itself.

41. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes 52 U.S.C. § 30101(4)(C), which speaks for itself.

42. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Deny, to the extent that the paragraph fails to state that only the federally-allocable portion of these exempt payments counts towards the \$5,000 threshold in 52 U.S.C. § 30101(4)(C). *See* 11 C.F.R. §§ 100.140, 100.147(b), 100.149(b); Local Party Brochure at 2. Admit that the paragraph otherwise accurately quotes portions of 52 U.S.C. § 30101(8)(B), which speaks for itself.

43. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the noted omissions and alterations, the paragraph accurately quotes an earlier version of the FEC’s Local Party Activity brochure (Oct. 2006, updated Jan. 2013), [http://www.fec.gov/pages/brochures/local\\_party\\_activity\\_brochure.pdf](http://www.fec.gov/pages/brochures/local_party_activity_brochure.pdf), which speaks for itself.

44. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the noted omissions and alterations, the

paragraph accurately quotes an earlier version of the FEC's Local Party Activity Brochure (Oct. 2006, updated Jan. 2013),

[http://www.fec.gov/pages/brochures/local\\_party\\_activity\\_brochure.pdf](http://www.fec.gov/pages/brochures/local_party_activity_brochure.pdf), which speaks for itself.

45. The first sentence of this paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Deny to the extent that the sentence suggests that allocation is prohibited for all federal election activity, because allocation can be made between federal funds and Levin funds for certain federal election activity pursuant to 11 C.F.R. § 300.33. Admit that the sentence otherwise accurately quotes 11 C.F.R. § 106.7(b), which speaks for itself. The second sentence of this paragraph contains plaintiffs' characterizations of legal claims in their own Complaint, to which no response is required.

46. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes 11 C.F.R. § 106.7(c), which speaks for itself.

47. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes 11 C.F.R. § 106.7(d)(1), which speaks for itself, in explaining the rules for compensated time, except that all three quoted sections omit the word "on" between the words "or" and "activities."

48. This paragraph and its accompanying footnote contain conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph appears to accurately state the allocation percentages listed in 11 C.F.R. § 106.7(d)(2), which speaks for itself.

49. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph appears to accurately state the allocation percentages listed in 11 C.F.R. § 106.7(d)(3), which speaks for itself.

50. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes 11 C.F.R. § 106.7(d)(4), which speaks for itself.

51. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the noted alterations, the paragraph accurately quotes 11 C.F.R. § 106.7(e), which speaks for itself. However, the paragraph is misleading to the extent that it fails to note that allocation between federal and Levin funds is permissible for federal election activity pursuant to 11 C.F.R. § 106.7(e)(3).

52. This paragraph and the heading that precede it contain conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the noted alterations, the paragraph accurately quotes 52 U.S.C. § 30125(a), (e), and (f)(1), which speak for themselves.

53. Admit the first sentence of this paragraph. Admit that the second sentence characterizes and quotes from a summary on the FEC website; that summary contains conclusions of law, to which no response is required. The third sentence 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, other than the noted omission, the paragraph accurately quotes language from 11 C.F.R. § 100.24(a)(2)(i)(A) and (3)(i)(A), which speak for themselves, except that the first letter of "encouraging" should be capitalized, and admit that the FEC revised the cited regulatory definitions in accord with the cited judicial decision.

54. This paragraph contains plaintiffs' characterizations of the 2002 Soft Money Rules, to which no response is required. To the extent a response is required: Admit that the paragraph accurately quotes the FEC's Explanation and Justification of its soft money regulations, which speaks for itself.

55. This paragraph contains plaintiffs' characterizations of *Shays v. FEC*, 337 F. Supp. 2d 28 (D.D.C. 2004), *aff'd*, 414 F.3d 76 (D.C. Cir. 2005), and FEC, *Definition of Federal Election Activity*, 71 Fed. Reg. 8926 (Feb. 22, 2006), to which no response is required. To the extent a response is required: Admit that, other than the noted alterations and omissions, the paragraph accurately quotes language from the above Explanation and Justification, which speaks for itself.

56. This paragraph contains plaintiffs' characterizations of *Shays v. FEC*, 528 F.3d 914 (D.C. Cir. 2008) ("*Shays III*"), to which no response is required. To the extent a response is required: Admit that the paragraph appears to paraphrase a portion of the opinion.

57. This paragraph contains plaintiffs' characterizations of FEC, *Definition of Federal Election Activity*, 75 Fed. Reg. 55257 (Sep. 10, 2010), to which no response is required. To the extent a response is required: Admit that, other than the noted omission, the paragraph accurately quotes the Commission's Explanation and Justification of its federal election activity regulations, which speaks for itself.

58. This paragraph contains plaintiffs' characterizations of FEC, *Definition of Federal Election Activity*, 75 Fed. Reg. 55257 (Sep. 10, 2010), to which no response is required. To the extent a response is required: This paragraph misleadingly omits language directly preceding the quoted language in that Commission Explanation and Justification for the promulgated regulations, which explains *McConnell*'s rationale for holding that restricting funding of Federal

election activity is constitutional, namely that the provisions were “likely necessary to prevent ‘corrupting activity from shifting wholesale to state committees and thereby eviscerating [the Act].’” *Id.* at 55258 (quoting *McConnell v. FEC*, 540 U.S. 93, 165-66 (2003)). The Commission otherwise admits that, with the noted alterations, the paragraph accurately quotes that Commission Explanation and Justification, which speaks for itself.

59. This paragraph contains plaintiffs’ characterizations of FEC, *Definition of Federal Election Activity*, 75 Fed. Reg. 55257 (Sep. 10, 2010), to which no response is required. To the extent a response is required: The paragraph mischaracterizes the Commission’s rulemaking by stating that the FEC “reiterated” the rationale of its 2006 Explanation and Justification, when in fact the FEC merely recounted that aspect of the prior rule’s rationale, which *Shays* had rejected. The Commission otherwise admits that, with the noted alterations and omissions, the paragraph accurately quotes that FEC Explanation and Justification for its promulgated regulations, which speaks for itself.

60. This paragraph contains plaintiffs’ characterizations of FEC, *Definition of Federal Election Activity*, 75 Fed. Reg. 55257 (Sep. 10, 2010) and a comment received by the FEC from the Democratic National Committee, to which no response is required. To the extent a response is required: Deny the paragraph’s implication that the Commission’s decision not to explicitly exclude Internet communications from the definition of Federal election activity was inappropriate. *See* FEC, *Definition of Federal Election Activity*, 75 Fed. Reg. 55257, 55261, 55263 (Sept. 10, 2010). Admit that, other than the noted alterations and omissions, the paragraph accurately quotes the cited FEC Explanation and Justification and a comment received by the FEC, which speak for themselves.



61. This paragraph contains plaintiffs' characterizations of FEC, *Internet Communications*, 71 Fed. Reg. 18589 (Apr. 12, 2006), to which no response is required. To the extent a response is required: Admit that, other than the noted omissions, the paragraph accurately quotes language from the above Explanation and Justification, which speaks for itself.

62. This paragraph contains plaintiffs' characterizations of FEC, *Internet Communications*, 71 Fed. Reg. 18589 (Apr. 12, 2006), to which no response is required. To the extent a response is required: Admit that, other than the noted alterations and omissions, the paragraph accurately quotes language from the above FEC Explanation and Justification, which speaks for itself. However, this paragraph is misleading to the extent it suggests that in the first block quotation, the FEC was explaining the new rule it adopted in 2006. In fact, the first block quotation is about the rationale for the prior FEC rule, which had excluded all Internet activities from the definition of "public communication." Moreover, the sentence in between the two block quotations is misleading, because the quoted language is about the effect of characterizing certain communications as "public communications," not as federal election activity. Lastly, the second block quotation predates the exemption of certain activity on a state/local committee's own website under the de minimis federal election activity exemptions. *See Definition of Federal Election Activity*, 75 Fed. Reg. at 55265.

63. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the noted alterations and omissions, this paragraph accurately quotes language from 11 C.F.R. § 100.24(a)(2)(i)(A) and (3)(i)(A), which speak for themselves.

64. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the noted alterations and omissions, the

first sentence of this paragraph accurately quotes language from 11 C.F.R. § 100.24(a)(2)(ii) and (3)(ii), which speak for themselves. Admit that the second sentence of this paragraph accurately quotes from FEC, *Definition of Federal Election Activity*, 75 Fed. Reg. 55257 (Sept. 10, 2010), which also speaks for itself.

65. This paragraph contains plaintiffs' characterizations of an FEC Explanation and Justification for promulgating a regulation, to which no response is required. To the extent a response is required: Admit that neither 11 C.F.R. § 100.24 nor FEC, *Definition of Federal Election Activity*, 75 Fed. Reg. 55257 (Sep. 10, 2010) define "encouraging or urging." The Notice of Proposed Rulemaking cited merely showed that the proposed rules used examples that were similar to those adopted in the final rule (in lieu of a definition), and these examples include use of the word "urging." See FEC, *Definition of Federal Election Activity*, 74 Fed. Reg. 53674, 53680 (Oct. 20, 2009); see also *Definition of Federal Election Activity*, 75 Fed. Reg. at 55261 (explaining that the final rule is reorganized, compared to the proposed one, but "[n]otwithstanding this change in form, the new definition covers the same universe of activities as the definition proposed in the NPRM").

66. The first three sentences of this paragraph contain conclusions of law and plaintiffs' characterizations of FEC regulations and the per curiam opinion in *Buckley v. Valeo*, 424 U.S. 1 (1975), to which no response is required. To the extent a response is required: The assertion in the first sentence that "encouraging or urging" means "exhorting" is unsupported by the quoted language or citations. The assertion in the second sentence that *Buckley's* express advocacy construction is a constitutional imperative in the exemption from the definition of Federal election activity is similarly unsupported by any of the cited sources. Therefore, the third sentence, which combines the unsupported propositions in the previous two sentences, has

no basis in the case law or regulations. The fourth sentence is plaintiffs' explanation of their own Complaint, to which no response is required.

67. This paragraph contains plaintiffs' characterizations of the transcript of an FEC rulemaking hearing, to which no response is required. To the extent a response is required: Admit that this paragraph accurately quotes portions of the transcript of the FEC's December 16, 2009 rulemaking hearing, which speaks for itself.

68. This paragraph contains plaintiffs' characterizations of the transcript of an FEC rulemaking hearing, to which no response is required. To the extent a response is required: Admit that, other than the noted alterations and omissions, this paragraph accurately quotes portions of the transcript of the FEC's December 16, 2009 rulemaking hearing, which speaks for itself.

69. The heading preceding this paragraph contains apparent characterizations of an audio recording which speaks for itself. Admit that, other than the noted alterations and omissions, the first sentence accurately quotes the press release, which speaks for itself, except that in the press release there is no quotation mark after "forum." Admit the second sentence.

70. This paragraph contains plaintiffs' characterizations of testimony given at the FEC's June 4, 2014 public forum, to which no response is required. To the extent a response is required: Admit that the FEC heard numerous witnesses express a variety of opinions at the June 2014 forum, including as to the rules related to federal election activity, and that the Commission has not made any regulatory changes as a result of those comments.

71. This paragraph contains plaintiffs' characterizations of testimony given at the FEC's June 4, 2014 public forum, to which no response is required. To the extent a response is required: Admit that this paragraph accurately quotes testimony from the FEC's June 2014

forum, which speaks for itself. The Commission notes that, immediately after the quote in the paragraph's last sentence, Mr. Martin stated that "[t]he recent *McCutcheon* decision and the recent lawsuit by Jim Bopp to strike down individual limits to parties is not the direction our party would advocate." Audio at 8:09, [http://www.fec.gov/audio/2014/20140604\\_FORUM.mp3](http://www.fec.gov/audio/2014/20140604_FORUM.mp3). The Commission is without knowledge or information sufficient to admit or deny the statements in the fifth, sixth, and seventh sentences of this paragraph, except that the Recommendations document identified was distributed at the June 2014 FEC forum.

72. This paragraph contains plaintiffs' characterizations of testimony given at the FEC's June 4, 2014 public forum, to which no response is required. To the extent a response is required: Admit that, other than the noted alterations and omissions, this paragraph accurately quotes testimony from the FEC's June 2014 public forum, which speaks for itself.

73. This paragraph contains plaintiffs' characterizations of a document created by the Committee on Campaign Finance Reform, to which no response is required. To the extent a response is required: Admit that this paragraph is generally accurate in quoting portions of the Committee on Campaign Finance Reform's "Legislative Recommendations for Campaign Finance Reform," which speaks for itself.

74. The Commission is without knowledge or information sufficient to admit or deny the first sentence of this paragraph. The second sentence contains plaintiffs' characterization of their own Complaint, to which no response is required.

75. The Commission admits that LAGOP has reported having a federal account and engaging in federal election activity, but the Commission is otherwise without knowledge or information sufficient to admit or deny the first, third, and fourth sentences of this paragraph. The Commission is also without knowledge or information sufficient to admit or deny the second

sentence of this paragraph, except that the sentence is denied to the extent that it suggests that LAGOP is unlawfully burdened by BCRA or unable to allocate Levin funds for use with all federal election activity.

76. The Commission is without knowledge or information sufficient to admit or deny this paragraph, except that it is denied to the extent that it suggests that local parties are unlawfully burdened by BCRA or required to become a reporting political committee to engage in federal election activity.

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

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

79. Admit that 11 C.F.R. § 109.20 defines what “coordinated” means generally under the Commission’s regulations, and that 11 C.F.R. § 109.21 defines specifically what “coordinated communications” are. The FEC notes that these regulations speak for themselves.

80. This paragraph and its accompanying footnote contain plaintiffs’ characterizations of FEC regulations, to which no response is required. To the extent a response is required: Admit that, other than the noted alterations and omissions, this paragraph and its footnote accurately quote 11 C.F.R. §§ 109.21, 109.30, 109.37, and 100.16, which speak for themselves. However, the Commission notes that an unregistered party organization can coordinate under 11 C.F.R. § 109.37 if it is authorized to do so by the national or state committee. *See* 11 C.F.R. § 109.33 (assignment of party coordination authority). In addition, the paragraph implies that a registered party committee like LAGOP can only coordinate under 11 C.F.R. § 109.37, when in fact it may also be permitted to coordinate under 11 C.F.R. § 109.21, for example in primary

elections. The Commission admits that Jefferson Parish Republican Parish Executive Committee and Orleans Parish Republican Executive Committee are not registered with the FEC.

81. This paragraph contains plaintiffs' characterization of 11 C.F.R. § 109.21(a), to which no response is required. To the extent a response is required: Admit that, other than the noted omissions, this paragraph accurately quotes 11 C.F.R. § 109.21(a), which speaks for itself.

82. This paragraph contains plaintiffs' characterization of 11 C.F.R. § 109.37, to which no response is required. To the extent a response is required: Admit that, other than the noted omissions, this paragraph accurately quotes language from 11 C.F.R. § 109.37, which speaks for itself.

83. This paragraph contains plaintiffs' characterization of FEC regulations, which speak for themselves, and no response is required. To the extent a response is required: Admit that the definitions of "public communication" in 11 C.F.R. § 100.26 and "electioneering communication" in 11 C.F.R. § 100.29 exclude "communications over the Internet," except that section 100.26 does not exclude "communications placed for a fee on another person's Web site."

84. The Commission is without knowledge or information sufficient to admit or deny the first sentence of this paragraph. The second sentence contains conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the noted alteration, this paragraph accurately quotes a portion of the 2002 Soft Money Rules, a document which speaks for itself. The Commission is otherwise without knowledge or information sufficient to admit or deny the second sentence. The third sentence contains plaintiffs' characterization of their own Complaint, to which no response is required.

85. The Commission is without knowledge or information sufficient to admit or deny this paragraph or its accompanying footnotes to the extent that they discuss the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity and plaintiffs' characterization of an FEC regulation, to which no response is required. Both footnote 15 and the sentence it accompanies are legal conclusions to which no response is required. To the extent a response is required: The Commission notes that "state election materials" may constitute federal election activity, because providing such information may fall within the definition of federal election activity and is exempted only if posted on a committee's own website pursuant to the de minimis exemption at 11 C.F.R. § 100.24(c)(7) (not 11 C.F.R. § 100.25(c)(7), as cited in this paragraph). The Commission admits that the material described in the paragraph is posted on LAGOP's website and that the paragraph accurately quotes the website, which speaks for itself.

86. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity and plaintiffs' characterization of an FEC regulation, to which no response is required. The FEC notes that plaintiffs' citation to 11 C.F.R. § 100.25(c)(7) is incorrect, as no such subsection exists. Plaintiffs appear to be intending to cite 11 C.F.R. § 100.24(c)(7).

87. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity and plaintiffs' characterization of 11 C.F.R. § 100.24(c)(7), to which no response is required.

88. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity and plaintiffs' characterization of 11 C.F.R. §§ 100.25, 100.26, and 100.27, to which no response is required.

89. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity and plaintiffs' characterization of 11 C.F.R. §§ 100.25 and 100.26, to which no response is required.

90. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity, to which no response is required.

91. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity and plaintiffs' characterization of 11 C.F.R. §§ 100.25, 100.26, and 100.27, to which no response is required.

92. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity and plaintiffs' characterization of 11 C.F.R. §§ 100.25, 100.26, and 100.27, to which no response is required.

93. Admit the first sentence. The Commission is without knowledge or information sufficient to admit or deny the remainder of this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about



hypothetical future activity and plaintiffs' characterization of 11 C.F.R. §§ 100.25, 100.26, and 100.27, to which no response is required.

94. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. This paragraph contains legal conclusions about hypothetical future activity and plaintiffs' characterization of 11 C.F.R. § 100.24, to which no response is required. To the extent a response is required: Admit that this paragraph accurately quotes language from 11 C.F.R. § 100.24, which speaks for itself.

95. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The last sentence consists of a legal conclusion, to which no response is required.

96. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity and plaintiffs' characterization of 11 C.F.R. § 100.24, to which no response is required. To the extent a response is required: Admit that this paragraph accurately quotes 11 C.F.R. § 100.24, which speaks for itself. Deny that any FEC regulations lack a "constitutional justification."

97. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. This paragraph also contains plaintiffs' characterization of 11 C.F.R. § 100.25, to which no response is required. To the extent a response is required: Admit that this paragraph accurately quotes 11 C.F.R. § 100.25, which speaks for itself. The last sentence contains plaintiffs' characterization of their own Complaint, to which no response is required.

98. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity and plaintiffs' characterization of 11 C.F.R. § 100.26, to which no response is required.

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

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

101. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. This paragraph also contains legal conclusions and plaintiffs' characterization of 11 C.F.R. § 100.24, to which no response is required. The last sentence contains plaintiffs' characterization of their own Complaint, to which no response is required.

102. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent it discusses the past desires of LAGOP or the policies of Senator Mary Landrieu. Admit that Senator Landrieu was a federal candidate in 2014.

103. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity, to which no response is required.

104. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The

paragraph also contains legal conclusions about hypothetical future activity, to which no response is required.

105. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. The paragraph also contains legal conclusions about hypothetical future activity, to which no response is required.

106. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of LAGOP. This paragraph also contains legal conclusions and plaintiffs' characterization of an FEC regulation, to which no response is required. The FEC notes that plaintiffs' citation at the end of the paragraph should read "11 C.F.R. § 106.7(d)(1)," rather than "11 C.F.R. § 106.7(1)(d)."

107. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of the plaintiffs. The bullet points in this paragraph are legal conclusions, to which no response is required. To the extent a response is required: Admit that, other than the noted alterations and omissions, this paragraph accurately quotes portions of FECA.

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

109. The first sentence of this paragraph contains plaintiffs' characterization of legal claims in their own Complaint, to which no response is required. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in the second and third sentences, which also contain legal conclusions, to which no response is required.

110. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of plaintiffs. This paragraph also contains legal conclusions, to which no response is required.

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

112. The Commission is without knowledge or information sufficient to admit or deny this paragraph to the extent that it discusses the planned future activities of plaintiffs. This paragraph also contains legal conclusions, to which no response is required.

113. The first sentence of this paragraph contains plaintiffs' characterizations of legal claims in their own Complaint, to which no response is required. The rest of the first sentence contains legal conclusions, to which no response is required. Deny the second sentence of this paragraph.

114. The Commission is without knowledge or information sufficient to admit or deny the first sentence of this paragraph. Deny the second sentence of this paragraph. The third sentence contains conclusions of law, including speculation about this Court's jurisdiction over this case well into the future, to which no response is required. To the extent a response is required: Admit that this sentence appears to characterize a portion of *FEC v. Wisconsin Right to Life, Inc.*, 551 U.S. 449, 461-63 (2007), which speaks for itself.

115. Admit that plaintiffs will face a credible threat of civil enforcement proceedings if they engage in activities in violation of FECA. Deny that plaintiffs will face a credible threat of criminal prosecution absent the required knowing and willful intent.

116. Deny.

117. Deny the heading preceding this paragraph. This paragraph re-alleges and incorporates by reference the allegations contained in paragraphs 1-116 of plaintiffs' Complaint, and the Commission therefore incorporates by reference its responses to those paragraphs.

118. The first sentence of this paragraph contains plaintiffs' characterizations of legal claims in their own Complaint, to which no response is required. The second sentence of this paragraph and the accompanying footnote contain legal conclusions and apparent quotations from Commission regulations, to which no response is required. The Commission is without knowledge or information sufficient to admit or deny the third sentence of this paragraph.

119. The first sentence of this paragraph contains plaintiffs' characterizations of legal claims in their own Complaint, to which no response is required. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in the second sentence of this paragraph or the footnote accompanying the first sentence. The second sentence also contains legal conclusions regarding hypothetical future activity and plaintiffs' characterization of 11 C.F.R. § 100.24, to which no response is required.

120. Deny that "the challenged provisions burden core political speech and association" and deny the last sentence. The remainder of the paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize a portion of the plurality opinion in *McCutcheon v. FEC*, 134 S. Ct. 1434 (2014), which speaks for itself. Admit that the paragraph accurately quotes from the opinion in *McCutcheon*.

121. This paragraph contains 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 majority opinion in *Citizens United v. FEC*, 558 U.S. 310 (2010), and the plurality and

dissenting opinions in *McCutcheon v. FEC*, 134 S. Ct. 1434, which speak for themselves. Admit that the paragraph quotes portions of the opinions in *McCutcheon*, but deny that their rearrangement and combination here state accurate legal holdings.

122. This paragraph contains 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 majority opinion in *Citizens United*, 558 U.S. 310, and the plurality opinion in *McCutcheon*, 134 S. Ct. 1434, which speak for themselves. Admit that the paragraph accurately quotes from the plurality opinion in *McCutcheon*.

123. Deny the first sentence. Admit that the Explanation and Justifications accompanying FEC rulemakings in 2002 and 2006 stated that “mere encouragement” would be excluded from the definitions of “voter registration activity” and “get-out-the-vote activity,” but deny that the Commission did so because they are “so lacking in quid-pro-quo risk.”

124. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the noted alteration, this paragraph quotes from the majority opinions in *Citizens United*, 558 U.S. 310, and *Buckley*, 424 U.S. 1. Deny the implication that the risk of corruption is not present with respect to contributions to political parties.

125. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the noted alteration, this paragraph quotes portions of the plurality opinion in *McCutcheon*, 134 S. Ct. 1434, but deny that their rearrangement and combination here state accurate legal holdings.

126. The first sentence of this paragraph contains conclusions of law, to which no response is required. The second sentence of this paragraph contains plaintiffs’ characterizations

of an FEC Explanation and Justification, to which no response is required. To the extent a response is required: The paragraph mischaracterizes the Commission's two rulemakings by indicating that they reached the same conclusion when in fact the 2010 rulemaking quote merely recounted that aspect of the 2006 rulemaking that *Shays III*, 528 F.3d 914 had rejected.

127. The first sentence and block quote contain plaintiffs' characterizations of an FEC Explanation and Justification of a regulation, to which no response is required. To the extent a response is required: Admit that, other than the noted alteration, the block quotation quotes from 67 Fed. Reg. at 49072. *But see Shays*, 337 F. Supp. 2d at 70-71 (rejecting the idea that no Internet communications could be included in the definition of public communication), *aff'd*, 414 F.3d 76 (D.C. Cir. 2005). The last three sentences of the paragraph contain conclusions of law, to which no response is required. To the extent a response is required: Plaintiffs accurately quote portions of 11 C.F.R. §§ 100.24 and 100.26. Deny that the described activities lack quid-pro-quo risk.

128. Deny.

129. Deny.

130. Deny the heading preceding this paragraph. This paragraph re-alleges and incorporates by reference the allegations contained in paragraphs 1-129 of plaintiffs' Complaint, and the Commission therefore incorporates by reference its responses to those paragraphs.

131. The first sentence of this paragraph and its accompanying footnote contain plaintiffs' characterizations of legal claims in their own Complaint, to which no response is required. The second sentence of this paragraph contains conclusions of law and plaintiffs' characterization of FEC regulations, to which no response is required. To the extent a response

is required, plaintiffs have mistakenly cited the definition of “public communication” as 11 C.F.R. § 100.25, when the correct cite is 11 C.F.R. § 100.26.

132. This paragraph contains plaintiffs’ characterizations of legal claims in their own Complaint, to which no response is required. The Commission is without knowledge or information sufficient to admit or deny the statements in the paragraph to the extent that they discuss the planned future activities of plaintiffs. This paragraph also contains legal conclusions, to which no response is required.

133. The first sentence of the paragraph contains conclusions of law, to which no response is required. Deny the second sentence.

134. This paragraph contains 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 majority opinion in *Citizens United*, 558 U.S. 310, and the plurality and dissenting opinions in *McCutcheon*, 134 S. Ct. 1434, which speak for themselves. Admit that the paragraph quotes portions of the opinions in *McCutcheon*, but deny that their rearrangement and combination here state accurate legal holdings.

135. This paragraph contains 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 majority opinion in *Citizens United*, 558 U.S. 310 and the plurality opinion in *McCutcheon*, 134 S. Ct. 1434, which speak for themselves. Admit that the paragraph accurately quotes from the plurality opinion in *McCutcheon*.

136. Deny the first sentence of this paragraph. The remainder of this paragraph contains 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 opinions in *Colorado*



*Republican Federal Campaign Committee v. FEC*, 839 F. Supp. 1448 (D. Colo. 1993); *Colorado Republican Federal Campaign Committee v. FEC*, 518 U.S. 604 (1996); and *Citizens United*, 558 U.S. 310, and accurately quotes from that last opinion.

137. Deny the first sentence of this paragraph and deny that plaintiffs' proposed activities pose no quid-pro-quo risk. The second through fourth sentences of this paragraph contain legal conclusions, to which no response is required. To the extent a response is required: Admit that this paragraph appears to characterize the Commission's *FEC Statement on Carey v. FEC: Reporting Guidance for Political Committees that Maintain a Non-Contribution Account* (Oct. 5, 2011), <http://www.fec.gov/press/press2011/20111006postcarey.shtml>. The last sentence of the paragraph characterizes plaintiffs' claims, to which no response is required, and to the extent the sentence discusses plaintiffs' planned future activities, the Commission is without knowledge or information sufficient to admit or deny the sentence.

138. Deny.

139. Deny the heading preceding this paragraph. This paragraph re-alleges and incorporates by reference the allegations contained in paragraphs 1-138 of plaintiffs' Complaint, and the Commission therefore incorporates by reference its responses to those paragraphs.

140. This paragraph contains plaintiffs' characterizations of legal claims in their own Complaint, to which no response is required.

141. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that 11 C.F.R. § 100.24, which speaks for itself, includes activity independent from federal candidates in the definition of "federal election activity."

142. The first sentence of the paragraph contains conclusions of law, to which no response is required. Deny the second sentence.

143. This paragraph contains 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 majority opinion in *Citizens United*, 558 U.S. 310, and the plurality and dissenting opinions in *McCutcheon*, 134 S. Ct. 1434, which speak for themselves. Admit that the paragraph quotes from the opinions in *McCutcheon*, but deny that their rearrangement and combination here state accurate legal holdings

144. This paragraph contains 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 majority opinion in *Citizens United*, 558 U.S. 310, and the plurality opinion in *McCutcheon*, 134 S. Ct. 1434, which speak for themselves. Admit that the paragraph accurately quotes from the plurality opinion in *McCutcheon*.

145. The first sentence of this paragraph contains conclusions of law, to which no response is required. Deny the second sentence of this paragraph.

146. This paragraph contains conclusions of law, to which no response is required. To the extent a response is required: Admit that, other than the noted alteration, this paragraph accurately quotes from the majority opinion in *Citizens United*, 558 U.S. 310. Deny that federal election activity by political parties is like the independent expenditures at issue in that case.

147. The first sentence of this paragraph contains conclusions of law, to which no response is required. Deny the remainder of the paragraph.

148. Deny.

149. Deny.

150. Deny the heading preceding this paragraph. This paragraph re-alleges and incorporates by reference the allegations contained in paragraphs 1-149 of plaintiffs' Complaint, and the Commission therefore incorporates by reference its responses to those paragraphs.

151. The first sentence of this paragraph contains plaintiffs' characterizations of legal claims in their own Complaint, to which no response is required. The second and third sentences of this paragraph contain conclusions of law, to which no response is required. To the extent a response is required: Admit that this paragraph characterizes portions of the majority opinion in *Citizens United*, 558 U.S. 310, the plurality opinion in *McCutcheon*, 134 S. Ct. 1434, and opinions in *McConnell*, 251 F. Supp. 2d 176, which speak for themselves, and that the paragraph accurately quotes an opinion in *McConnell*. Deny the last sentence of the paragraph.

152. Deny.

#### **Prayer for Relief**

1-12. Plaintiffs are not entitled to the relief requested or to any other relief.

Respectfully submitted,

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

/s/ Seth Nesin  
Seth Nesin  
Attorney  
snesin@fec.gov

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

Greg J. Mueller (D.C. Bar No. 462840)  
Attorney  
gmueller@fec.gov

Kevin Deeley  
Acting Associate General Counsel  
kdeeley@fec.gov

Charles Kitcher (D.C. Bar No. 986226)  
Attorney  
ckitcher@fec.gov

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

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

October 13, 2015