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CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

JON MARCUS,

Plaintiff,

CIVIL ACTION NO.

vs.

DISTRICT JUDGE

MAGISTRATE JUDGE

**UNITED STATES ATTORNEY
GENERAL ALBERTO R. GONZALES,
FEDERAL ELECTION COMMISSION
CHAIRMAN MICHAEL E. TONER,
In their official capacities,**

CV '07 0398 PCT EHC

Defendants.

**MICHAEL R. DEZSI (P64530)
Counsel for Plaintiff
FIEGER, FIEGER, KENNEY & JOHNSON, P.C.,
19390 W. Ten Mile Rd.
Southfield, MI 48075
(248) 355-5555**

COMPLAINT FOR DECLARATORY RELIEF

Plaintiff, Jon Marcus, brings this Complaint against the above named Defendants seeking declaratory judgment. In support of his Complaint, Plaintiff states the following:

1. Plaintiff Jon Marcus resides in Yavapai County, Arizona located in the United States District Court for the District of Arizona. Plaintiff is the target of a politically motivated investigation initiated by Defendants because of Plaintiff's political activities including his support and financial contributions to John Edwards' 2004 presidential campaign.

2. Defendant Alberto R. Gonzales is the United States Attorney General who serves at the pleasure of President George W. Bush. Prior to his appointment as United States Attorney General, Mr. Gonzales served as White House Counsel to President George W. Bush, and prior

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to that, he was appointed by then governor George W. Bush to serve as a Justice of the Texas Supreme Court.

3. Defendant Michael E. Toner is the current Chairman of the Federal Election Commission and was appointed by President George W. Bush. Prior to his appointment by President Bush, Toner served as Chief Counsel to the Republican National Committee, and prior to that Mr. Toner served as General Counsel of the Bush-Cheney Transition Team and General Counsel of the Bush-Cheney 2000 Presidential Campaign.

4. Jurisdiction is conferred upon this Honorable Court by 28 U.S.C. § 1331, this being a civil action arising under the Constitution and the laws of the United States. Jurisdiction is also conferred upon this Court by 28 U.S.C. § 1346.

5. Plaintiff brings this action pursuant to 28 U.S.C. § 2201 & 2202, this being an action for declaratory judgment and equitable relief authorized by law to redress deprivations under color of law of rights, privileges, and immunities secured by the United States Constitution.

6. At all times relevant to this Complaint, and in taking all of the actions described herein, Defendants have acted and threaten to act under color of law and were effecting, and will effect, the custom, policies, rules, and laws of the United States of America.

FACTS GIVING RISE TO PLAINTIFF'S COMPLAINT

7. The Federal Election Commission (FEC) is congressionally delegated with the sole exclusive jurisdiction over the Federal Campaign Finance Act ("Act"). 2 U.S.C. § 437c.

8. By statute, the FEC is a bipartisan Commission consisting of 6 members no more than 3 of whom may be affiliated with the same political party. 2 U.S.C. § 437c.

9. By statute, the FEC is charged with the exclusive jurisdiction of civil enforcement of the Act. 2 U.S.C. § 437c.

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10. By statute, no one other than the Federal Election Commission can proceed with an investigation or prosecution of alleged violations of the Act *until and only after the FEC has itself conducted an investigation and referred the matter to the Attorney General "by an affirmative vote of 4 of its members."* 2 U.S.C. § 437g(a)(5)(C). Until such time that the FEC has made such a bipartisan referral to the Attorney General, the Attorney General has no authority, jurisdiction, or power to proceed with an investigation of alleged violations of the Act.

11. To date, the FEC has never made any such referral to the Attorney General alleging that Plaintiff violated any provisions of the Act.

12. On or about November 2005, Defendant Gonzales, by and through his official office and in supervision of his agents, began an unlawful and unconstitutional investigation of Plaintiff for alleged violations of the Federal Campaign Finance Act, 2 U.S.C. § 431 *et. seq.*

13. On or about October 2006, Plaintiff was subpoenaed in Arizona to testify before a federal grand jury. During the course of Defendant's illegal and unconstitutional investigation and interrogation before the grand jury, Defendant also attempted to coerce Plaintiff to reveal constitutionally protected activities such as the identity of the presidential candidate for whom he voted in the 2004 election.

COUNT I

15. Plaintiff incorporates paragraphs 1-14 of his Complaint herein.

16. Under the plain and unambiguous statutory language of the Act, the Attorney General and all of his subordinate agencies, are barred from conducting an investigation or prosecution of alleged violations of the Federal Campaign Finance Act until such time that the FEC has investigated and referred the matter "*by an affirmative vote of 4 of its members.*"

The purpose of the statute is to protect against the type of politically motivated investigation/prosecution as are occurring here.

17. To date, the FEC has never investigated or referred to the Attorney General any alleged violations of the Act by Plaintiff.

18. Contrary to the congressional mandate contained in the statute, Defendants have initiated an unlawful and unconstitutional investigation of Plaintiff based on suspected violations of the Act. The FEC is tacitly cooperating and conspiring with the Attorney General and his subordinate offices to circumvent the jurisdictional requirements of the Federal Campaign Finance Act.

19. By proceeding with a criminal investigation without a congressionally mandated referral by a bipartisan majority vote of the FEC, Defendants are violating the clear provisions of the Act, and usurping the congressional command that the FEC has exclusive primary jurisdiction over all alleged violations of the Act.

20. By proceeding with a criminal investigation without a congressionally mandated referral by a bipartisan majority vote of the FEC, Defendants are engaging in an unlawful investigation for which they lack jurisdiction.

21. By ignoring the terms of the Act, and proceeding without a referral from the FEC, Defendant Gonzales is using Plaintiff's Fifth Amendment privilege as a mechanism to thwart the mandated role of the FEC to investigate and resolve, in the first instance, disputes involving campaign finance.

RELIEF REQUESTED

For the reasons stated herein, Plaintiff is entitled to:

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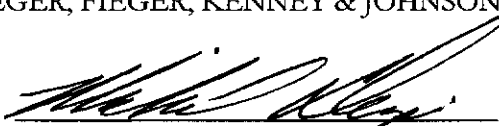
(a) a declaration that Defendants' conduct is unlawful, unconstitutional, and contrary to the requirements of the Federal Campaign Finance Act;

(b) any other relief as authorized under the laws including costs and attorney fees for bringing this action.

Respectfully submitted,

FIEGER, FIEGER, KENNEY & JOHNSON, P.C.

By:



MICHAEL R. DEZSI (P64530)

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Dated: February 20, 2007