

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

_____)	
LIBERTARIAN NATIONAL)	
COMMITTEE, INC.,)	Civ. No. 11-562 (RLW-MG-RBW)
)	
Plaintiff,)	THREE-JUDGE COURT
)	
v.)	
)	ANSWER AND AFFIRMATIVE
FEDERAL ELECTION COMMISSION,)	DEFENSE TO THE FIRST
)	AMENDED COMPLAINT
Defendant.)	
_____)	

**DEFENDANT FEDERAL ELECTION COMMISSION’S
ANSWER AND AFFIRMATIVE DEFENSE
TO THE FIRST AMENDED COMPLAINT**

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

GENERAL DENIAL

Any allegation not specifically responded to below is DENIED.

SPECIFIC DENIALS AND RESPONSES

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

1. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph also contains plaintiff’s characterization of provisions of the Federal Election Campaign Act (“FECA”), 2 U.S.C. §§ 431-57, which speak for themselves, and conclusions of law, to which no response is necessary.

2. DENY that 2 U.S.C. §§ 441a or 441i forbids a national party committee like LNC to solicit a bequest that exceeds FECA's annual contribution limits, so long as that party committee accepts or receives funds from that bequest only in amounts that comply with FECA's annual contribution limits and in a manner consistent with the Commission's relevant regulations and advisory opinions.
3. DENY that the application of 2 U.S.C. §§ 441a or 441i to the contribution, solicitation, acceptance, or spending of decedents' bequests violates the First Amendment. This paragraph contains plaintiff's characterizations of the First Amended Complaint, which speaks for itself.
4. ADMIT that plaintiff LNC is the national committee of the Libertarian Party of the United States, that LNC is a not-for-profit corporation, and that LNC maintains an office in Washington, D.C. The Commission is without knowledge or information sufficient to admit or deny the other factual allegations in this paragraph.
5. ADMIT that defendant FEC is the federal government agency charged with the administration and civil enforcement of FECA. The Department of Justice prosecutes criminal violations of FECA.
6. DENY that this three-judge Court has jurisdiction over the claims made in the First Amended Complaint. ADMIT that a single-judge district court would have subject-matter jurisdiction over the claims made in the First Amended Complaint. DENY that the matter should be immediately certified to the United States Court of Appeals for the District of Columbia Circuit for consideration *en banc* pursuant to 2 U.S.C. § 437h. It is the responsibility of a district court with jurisdiction over this matter to create a factual record that is sufficient for that court to determine which

constitutional claims, if any, merit certification to the Court of Appeals and that is sufficient for the proper adjudication of LNC's claims.

7. ADMIT that venue is proper in this Court.
8. This paragraph contains plaintiff's characterization of a provision of FECA, which speaks for itself.
9. This paragraph contains plaintiff's characterization of a provision of FECA and amendment to FECA, which speak for themselves. This paragraph also contains a conclusion of law, to which no response is necessary.
10. This paragraph contains plaintiff's characterization of provisions of FECA, which speaks for themselves.
11. This paragraph contains plaintiff's characterizations of a provision of FECA and the Commission's advisory opinions, which speak for themselves.
12. This paragraph contains conclusions of law, to which no response is necessary.
13. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
14. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
15. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph also contains conclusions of law, to which no response is necessary.
16. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

17. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph also contains conclusions of law, to which no response is necessary.
18. The Commission incorporates by reference all responses contained in the preceding paragraphs.
19. DENY that a promise to provide funds to a political party by bequest cannot create actual or apparent corruption and cannot be used to circumvent contribution limits to political candidates. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph. This paragraph also contains conclusions of law, to which no response is necessary.
20. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
21. This paragraph contains conclusions of law, to which no response is necessary, and plaintiff's characterizations of judicial decisions, which speak for themselves.
22. This paragraph contains conclusions of law, to which no response is necessary, and plaintiff's characterization of a judicial decision, which speaks for itself.
23. DENY that the application of 2 U.S.C. §§ 441a or 441i to decedents' bequests violates the First Amendment. This paragraph also contains conclusions of law, to which no response is necessary. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
24. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph also contains conclusions of law, to which no response is necessary.

25. DENY that 2 U.S.C. §§ 441a or 441i forbids a political party to solicit bequests that exceed FECA's annual contribution limits, so long as that party accepts or receives funds from such bequests in amounts that comply with FECA's annual contribution limits and in a manner consistent with the Commission's relevant regulations and advisory opinions. This paragraph also contains conclusions of law, to which no response is necessary, and plaintiff's characterizations of a judicial decision, which speaks for itself. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
26. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
27. DENY.

PRAYER FOR RELIEF

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

AFFIRMATIVE DEFENSE

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

Respectfully submitted,

Phillip Christopher Hughey
Acting General Counsel
chughey@fec.gov

David Kolker (D.C. Bar No. 394558)
Associate General Counsel
dkolker@fec.gov

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

/s/ Kevin P. Hancock

Kevin P. Hancock

Attorney

khancock@fec.gov

FEDERAL ELECTION COMMISSION

999 E Street NW

Washington, DC 20463

(202) 694-1650

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