UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

THE REAL TRUTH ABOUT OBAMA, INC.,	)	
Plaintiff,	)	No. 3:08-cv-00483-JRS
v.	)	
FEDERAL ELECTION COMMISSION and UNITED STATES DEPARTMENT OF JUSTICE,	)	ANSWER
Defendants.	)	

DEFENDANT FEDERAL ELECTION COMMISSION'S ANSWER TO PLAINTIFF'S VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Defendant Federal Election Commission (FEC or Commission) submits this answer to The Real Truth About Obama, Inc.'s (RTAO) Verified Complaint for Declaratory and Injunctive Relief. Any allegation not specifically responded to below is DENIED.

1. The first sentence of this paragraph contains plaintiff's characterization of the complaint, which speaks for itself, but the Commission DENIES that the three challenged regulations or enforcement policy "restrict RTAO's constitutionally-protected 'issue advocacy.'" The second and third sentences recite language from a judicial decision, which speaks for itself. The Commission is without knowledge or information sufficient to admit or deny the allegations in the fourth, fifth, and sixth sentences.

2. This paragraph characterizes the legal claims and relief requested in the complaint. This characterization requires no response.

3. DENY that the Court has jurisdiction over the claims made in this complaint. DENY that the Commission's enforcement policy is reviewable under the Administrative Procedure Act, as the policy is not final agency action.

4. ADMIT that venue is proper in this Court.

5. ADMIT that RTAO is a nonprofit Virginia corporation. The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph.

6. ADMIT that the Commission is the federal government agency with civil enforcement authority over the Federal Election Campaign Act (FECA) and that it is located in Washington, DC. ADMIT that the Commission promulgated the regulations and explained the enforcement policy at issue in this case, but because of this paragraph's vague use of the term "adopted," the Commission is unable to admit or deny that part of the paragraph.

7. ADMIT that the Department of Justice (DOJ) is an executive department of the United States, with the Attorney General as its head, and that it is headquartered in Washington, DC. ADMIT that DOJ has control over all criminal prosecutions in which the United States has an interest, including criminal enforcement authority over the federal laws at issue in this case. DENY that DOJ has "control over all…civil suits in which the United States has an interest."

8. ADMIT.

9. ADMIT that RTAO has registered with the Internal Revenue Service to be considered as an organization subject to 26 U.S.C. § 527. To the extent this paragraph contains

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

10. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph. To the extent the paragraph contains conclusions of law, no response is necessary.

11. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph. To the extent the paragraph contains conclusions of law, no response is necessary.

12. This paragraph recites plaintiff's Articles of Incorporation, which speak for themselves. The Commission is without knowledge or information sufficient to admit or deny the other allegations in this paragraph.

13. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph. To the extent the paragraph contains conclusions of law, no response is necessary.

14. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph. To the extent this paragraph characterizes plaintiff's Articles of Incorporation or contains conclusions of law, no response is necessary.

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

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

17. The Commission is without knowledge or information sufficient to admit or deny the allegations in this paragraph. To the extent the paragraph contains conclusions of law, no response is necessary.

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

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

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

21. DENY that RTAO is chilled from proceeding with its activities, and DENY that the "*Change*" ad is express advocacy under 11 C.F.R. § 100.22(b). The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph. To the extent the paragraph contains conclusions of law, no response is necessary.

22. DENY that RTAO is chilled from proceeding with its activities. The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph. To the extent the paragraph contains conclusions of law, no response is necessary.

23. DENY that RTAO is chilled from proceeding with its activities. To the extent this paragraph characterizes communications between DOJ and Democracy 21, those documents speak for themselves.

24. DENY that RTAO's fears are reasonable, that the "Change" ad is express advocacy under 11 C.F.R. § 100.22(b), and that the fundraising communication in the

complaint solicits "contributions" under 11 C.F.R. § 100.57. The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph. To the extent the paragraph contains conclusions of law, no response is necessary.

25. DENY that RTAO's fears are reasonable, that the "Change" ad is a "prohibited electioneering communication" under 11 C.F.R. § 114.15, and that the Commission's regulations are vague or overbroad. The Commission is without knowledge or information sufficient to admit or deny the remaining allegations in this paragraph. To the extent the paragraph contains conclusions of law, no response is necessary.

26. DENY.

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

28. This paragraph recites 11 C.F.R. § 100.22(b), which speaks for itself.

29. DENY that 11 C.F.R. § 100.22(b) is unconstitutionally vague or overbroad. The remaining allegations describe judicial decisions, which speak for themselves.

30. This paragraph describes a judicial decision and contains conclusions of law, to which no response is necessary.

31. This paragraph describes judicial decisions and contains conclusions of law, to which no response is necessary. The paragraph also contains plaintiff's characterization of an FEC statement, which speaks for itself.

32. DENY that 11 C.F.R. § 100.22(b) is beyond the Commission's statutory authority and DENY that the regulation is unconstitutionally vague or overbroad. This paragraph

describes judicial decisions and contains conclusions of law, to which no response is necessary.

33. DENY.

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

35. This paragraph recites 11 C.F.R. § 100.57(a), which speaks for itself.

36. DENY that 11 C.F.R. § 100.57 is unconstitutionally vague or overbroad. This paragraph describes judicial decisions and contains conclusions of law, to which no response is necessary.

37. This paragraph contains plaintiff's characterization of a judicial decision, which speaks for itself.

38. DENY that 11 C.F.R. § 100.57 exceeds the Commission's statutory authority and DENY that the regulation is unconstitutionally vague or overbroad. The remainder of this paragraph contains conclusions of law, to which no response is necessary.

39. DENY.

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

41. This paragraph contains plaintiff's characterizations of Commission regulations and policies, which speak for themselves. DENY that "any flaws" in the Commission's regulations are "fatal to the FEC's PAC status enforcement policy."

42. This paragraph contains plaintiff's characterizations of Commission statements as to the enforcement of FECA, which speak for themselves. DENY that the FEC's enforcement policy as to political committee status is vague or overbroad.

43. This paragraph contains plaintiff's characterizations of judicial decisions and Commission statements as to the enforcement of FECA, which all speak for themselves. DENY that there is "no authority" for the Commission's enforcement policy as to political committee status and the "major purpose" test.

44. This paragraph contains plaintiff's characterizations of Commission statements as to the enforcement of FECA, which speak for themselves.

45. This paragraph contains plaintiff's characterizations of Commission statements as to the enforcement of FECA, which speak for themselves. DENY that the Commission's enforcement policy is unconstitutional or otherwise impermissible.

46. This paragraph describes judicial decisions and contains conclusions of law, to which no response is necessary. DENY that the Commission's enforcement policy is unconstitutional or otherwise impermissible.

47. DENY.

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

49. This paragraph recites 11 C.F.R. § 114.15, which speaks for itself.

50. This paragraph contains plaintiff's characterizations of judicial decisions and Commission regulations, which speak for themselves. DENY that 11 C.F.R. § 114.15(c) is unconstitutionally vague or overbroad.

51. This paragraph contains plaintiff's characterizations of judicial decisions, which speak for themselves.

52. This paragraph contains plaintiff's characterizations of a judicial decision and Commission regulations, which speak for themselves. DENY that 11 C.F.R. § 114.15 is unconstitutional or beyond the Commission's statutory authority.

53. DENY.

PRAYER FOR RELIEF

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

AFFIRMATIVE DEFENSES

1. Plaintiff's claims are not justiciable.

2. Plaintiff fails to state a claim.

Respectfully submitted,

/s/

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September 29, 2008

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of September, 2008, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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