

UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF LOUISIANA
 NEW ORLEANS DIVISION

)	
ANH "JOSEPH" CAO,)	
REPUBLICAN NATIONAL COMMITTEE, AND)	
REPUBLICAN PARTY OF LOUISIANA,)	
)	
PLAINTIFFS,)	
)	
v.)	CIVIL ACTION NO. 1:08CV4887
)	
FEDERAL ELECTION COMMISSION,)	
)	JUDGE HELEN G. BERRIGAN
)	
DEFENDANT.)	CHIEF MAGISTRATE JUDGE
)	ALMA L. CHASEZ
)	

**DEFENDANT FEDERAL ELECTION COMMISSION'S ANSWER
 TO PLAINTIFFS' SECOND AMENDED VERIFIED COMPLAINT
 FOR DECLARATORY AND INJUNCTIVE RELIEF**

Defendant Federal Election Commission (FEC or Commission) submits this answer to the Amended Verified Complaint for Declaratory and Injunctive Relief of plaintiffs Anh "Joseph" Cao, the Republican National Committee (RNC), and the Republican Party of Louisiana (LA-GOP). Any allegation not specifically responded to below is DENIED.

1. This paragraph contains plaintiffs' characterizations of judicial decisions and conclusions of law, to which no response is necessary.
2. This paragraph contains plaintiffs' characterizations of judicial decisions and conclusions of law, to which no response is necessary.

3. This paragraph contains plaintiffs' characterizations of the complaint, which speaks for itself.
4. This paragraph contains plaintiffs' characterizations of the complaint, which speaks for itself.
5. This paragraph contains plaintiffs' characterizations of the complaint, which speaks for itself.
6. This paragraph contains plaintiffs' characterizations of the complaint, which speaks for itself.
7. This paragraph contains plaintiffs' characterizations of the complaint, which speaks for itself.
8. ADMIT that this Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 2201. ADMIT that Plaintiffs Cao and RNC may invoke 2 U.S.C. § 437h. DENY that Plaintiff LA-GOP may invoke 2 U.S.C. § 437h since it is not the "Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President." 2 U.S.C. § 437h.
9. ADMIT that venue is proper in this Court.
10. ADMIT that plaintiff Cao was the Republican candidate for U.S. Representative from the Second Congressional District of Louisiana in the general election of December 6, 2008 against incumbent William Jefferson and other candidates. The Commission is without knowledge or information sufficient to admit or deny the other factual allegations in this paragraph.
11. ADMIT that the RNC is registered with the FEC as a national committee of the Republican Party and identifies its headquarters as being in the District of Columbia.

12. ADMIT that the LA-GOP is registered with the FEC as a state committee of the Republican Party. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in the second sentence of this paragraph.
13. ADMIT that the Commission has authority over the civil enforcement of the Federal Election Campaign Act, 2 U.S.C. §§ 431-55 (FECA), and that its headquarters are in Washington, DC.
14. This paragraph contains plaintiffs' characterizations of a judicial decision and conclusions of law, to which no response is necessary.
15. This paragraph contains plaintiffs' characterizations of a provision of the FECA, which speaks for itself.
16. This paragraph contains plaintiffs' characterizations of a provision of the FECA, which speaks for itself.
17. This paragraph contains plaintiffs' characterizations of provisions of the FECA and an FEC regulation, which speak for themselves.
18. This paragraph contains plaintiffs' characterization of 11 C.F.R. § 109.21, which speaks for itself.
19. This paragraph contains plaintiffs' characterization of the FECA, which speaks for itself.
20. This paragraph contains plaintiffs' characterizations of provisions of the FECA, which speak for themselves.
21. This paragraph contains plaintiffs' characterization of the FECA, FEC regulations 11 C.F.R. §§ 109.30-37, and a Commission Explanation and Justification, which speak for themselves.

22. This paragraph contains plaintiffs' characterizations of a provision of the FECA, which speaks for itself.
23. This paragraph contains plaintiffs' characterizations of a provision of the FECA, which speaks for itself.
24. This paragraph contains plaintiffs' characterizations of a provision of the FECA, which speaks for itself.
25. This paragraph contains plaintiffs' characterizations of a provision of the FECA, which speaks for itself.
26. This paragraph contains plaintiffs' characterizations of a provision of the FECA, which speaks for itself.
27. ADMIT that the Commission publishes current Party Expenditure Provision limits in the Federal Register. Otherwise, this paragraph contains plaintiffs' characterizations of provisions of the FECA, which speak for themselves.
28. ADMIT that plaintiffs have accurately stated the Party Expenditure limits for Senate candidates, as adjusted for inflation, that were applicable in 2008.
29. ADMIT that plaintiffs have accurately stated both the states that have only one congressional district and the Party Expenditure limits for candidates for the U.S. House of Representative candidates in these states, as adjusted for inflation, that were applicable in 2008.
30. ADMIT that plaintiffs have accurately stated the Party Expenditure limits for candidates for the U.S. House of Representative in states with more than one Congressional district, as adjusted for inflation, that were applicable in 2008.

31. This paragraph contains plaintiffs' characterization of the FECA and 11 C.F.R. § 109.32, which speak for themselves.
32. This paragraph contains plaintiffs' characterization of the FECA and 11 C.F.R. § 109.37, which speak for themselves.
33. This paragraph contains plaintiffs' characterization of the FECA and 11 C.F.R. § 109.37, which speak for themselves.
34. ADMIT that plaintiffs have accurately stated the contribution limitations for national committees of political parties in Senatorial races that were applicable in 2008. The first sentence of this paragraph contains plaintiffs' characterizations of provisions of FECA and 73 Fed. Reg. 8698, which speak for themselves.
35. ADMIT that the RNC supports federal and state candidates. The second sentence of this paragraph contains legal argument to which no response is necessary. Otherwise the Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
36. ADMIT that the website identified in this paragraph contains the 2008 Republican Platform. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph.
37. This paragraph recites excerpts from the brief of the state party committee respondent in *FEC v. Colorado Republican Federal Campaign Committee (Colorado II)*, 533 U.S. 431 (2001), to which no response is necessary.
38. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

39. The Commission ADMITS that reporting indicates the RNC made a \$5,000 contribution to plaintiff Cao's campaign committee. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph.
40. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
41. DENY that plaintiffs have been “chilled” by the “risk” of a “burdensome and intrusive investigation.” The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph.
42. DENY that plaintiffs have been “chilled” by “fear of an investigation and penalties.” The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph.
43. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
44. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. The paragraph also contains conclusions of law, to which no response is necessary.
45. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
46. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

47. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. The paragraph also contains conclusions of law, to which no response is necessary.
48. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
49. DENY that RNC or LA-GOP is “chilled” by “fear of a burdensome investigation, enforcement action, and potential penalties” in violation of the First Amendment. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph.
50. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.
51. This paragraph contains a conclusion of law, to which no response is necessary.
52. The Commission incorporates by reference all responses contained in the preceding paragraphs.
53. This paragraph characterizes plaintiff’s complaint, a judicial decision, and the FECA, which speak for themselves. This paragraph also contains conclusions of law, to which no response is necessary.
54. This paragraph contains plaintiffs’ characterizations of provisions of FECA and a judicial decision, which speak for themselves. This paragraph also contains conclusions of law, to which no response is necessary.
55. This paragraph contains plaintiffs’ characterizations of a judicial decision, which speaks for itself. This paragraph also contains conclusions of law, to which no response is necessary.

56. This paragraph contains plaintiffs' characterizations of judicial decisions and conclusions of law, to which no response is necessary.
57. This paragraph contains plaintiffs' characterizations of judicial decisions and the FECA, which speak for themselves. This paragraph also contains conclusions of law, to which no response is necessary.
58. DENY.
59. DENY.
60. DENY.
61. The Commission incorporates by reference all responses contained in the preceding paragraphs.
62. This paragraph contains plaintiffs' characterizations of legal claims in the complaint and judicial decisions, which speak for themselves.
63. DENY.
64. DENY.
65. The Commission incorporates by reference all responses contained in the preceding paragraphs.
66. This paragraph contains plaintiffs' characterizations of a legal claim in the complaint, to which no response is necessary.
67. This paragraph contains plaintiffs' characterizations of provisions of FECA, which speak for themselves.
68. DENY. To the extent that this paragraph contains plaintiffs' characterizations of a judicial decision, it speaks for itself.

69. ADMIT that plaintiffs have accurately stated the Party Expenditure limits for Senate candidates generally and in Louisiana, as adjusted for inflation, that were applicable in 2008.
70. ADMIT that plaintiffs have accurately stated the Party Expenditure limits for candidates for the U.S. House of Representatives, as adjusted for inflation, that were applicable in 2008. ADMIT that, under the limits applicable in 2008, the \$84,100 limit for candidates for the U.S. House of Representatives in states with one Congressional district exceeded the limit in each of those states as calculated under the 2¢-per-VAP formula.
71. DENY.
72. DENY.
73. DENY.
74. DENY.
75. DENY the first sentence in the paragraph. The second sentence of the paragraph contains a conclusion of law, to which no response is necessary.
76. The Commission incorporates by reference all responses contained in the preceding paragraphs.
77. This paragraph contains plaintiffs' characterizations of a provision of the FECA, which speaks for itself.
78. This paragraph contains plaintiffs' characterizations of a provision of the FECA, which speaks for itself.
79. DENY.
80. DENY.

81. DENY.

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

83. This paragraph contains plaintiffs' characterizations of legal claims in the complaint and judicial decisions, which speak for themselves.

84. DENY.

85. DENY.

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

87. DENY that 2 U.S.C. § 441a(a)(2)(A) is unconstitutional as applied to political parties. The remainder of this paragraph contains plaintiffs' characterizations of legal claims in the complaint and judicial decisions, which speak for themselves.

88. DENY.

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

90. DENY that 2 U.S.C. § 441a(a)(2)(A) is "per se unconstitutional because it is not adjusted for inflation." ADMIT that inflation may lower the monetary value of a contribution limit. The remainder of this paragraph contains conclusions of law, to which no response is necessary, and plaintiffs' characterizations of legal claims in the complaint, which speak for themselves.

91. DENY that the higher limit "vitiates the anti-corruption interest" as to any lower amount. The remainder of this paragraph contains conclusions of law, to which no

response is necessary, and plaintiffs' characterizations of legal claims in the complaint, which speak for themselves.

92. DENY that that the FECA's limits on party contributions are "too low" for parties to fulfill their roles. The remainder of this paragraph contains plaintiffs' characterizations of legal claims in the complaint, which speak for themselves.
93. DENY.

PRAYER FOR RELIEF

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

Respectfully submitted,

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/s/ Seth Nesin
Seth Nesin (T.A.)
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February 18, 2009

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing to be delivered through the ECF electronic filing system on the 18th day of February, 2009, to:

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