

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

COMBAT VETERANS FOR CONGRESS	)	
POLITICAL ACTION COMMITTEE, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:11-cv-02168-CKK
	)	
FEDERAL ELECTION COMMISSION,	)	
	)	
Defendant.	)	

**DEFENDANT FEDERAL ELECTION COMMISSION’S  
ANSWER TO PLAINTIFFS’ PETITION FOR REVIEW**

Defendant Federal Election Commission (“FEC” or “Commission”), through its undersigned counsel, responds to the Petition For Review of Federal Election Commission Determination and Complaint for Declaratory and Injunctive Relief (“Petition”) filed by plaintiffs Combat Veterans for Congress PAC (“Combat Veterans” or “Committee”) and David H. Wiggs, Treasurer (“Wiggs”), as follows:

**GENERAL DENIAL**

Any allegation not specifically responded to below is denied.

**SPECIFIC DENIALS AND REPOSESES**

The Commission response as follows to the numbered paragraphs of the Petition:

**INTRODUCTION**

1. This paragraph contains plaintiffs’ characterization of the Petition, which speaks for itself, and therefore no response is necessary. Insofar as this paragraph alleges that the Commission acted unlawfully, the paragraph is denied.

2. Deny.

3. Deny.
4. Deny.

### **JURISDICTION and VENUE**

5. The first sentence contains plaintiffs' characterization of the Petition, which speaks for itself, and therefore no response is required. Insofar as the first sentence also contains plaintiffs' conclusions of law, no response is necessary. Admit that this Court has jurisdiction to review the Commission's final determinations in Administrative Fine ("AF") matters 2199, 2312, and 2355 pursuant to 2 U.S.C. § 437g(a)(4)(C)(iii). Deny that the Court has jurisdiction under 2 U.S.C. § 437g, 2 U.S.C. § 1331, or 5 U.S.C. § 701-06 to hear a challenge in this case to the Commission's decision not to take action against the Committee's former treasurer, Michael Curry, or a challenge to the Commission's administrative fines regulations. Admit the third sentence.

6. Admit that venue is proper in this district under 2 U.S.C. § 437g(a)(4)(C)(iii) and 28 U.S.C. §§ 1391(b), (e). Admit the second sentence.

### **PARTIES**

7. Admit that plaintiff Combat Veterans for Congress PAC has registered with the Commission as a non-connected federal political committee, and that the PAC's registered address is located in Beverly Hills, California. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph.

8. Admit.

9. Admit the first sentence. Admit that the Commission enforces FECA. Insofar as the second sentence contains plaintiffs' conclusions of law, no response is required.

### STATEMENT OF FACTS

10. Admit that the Committee registered as a non-connected federal political by filing a FEC Form 1, Statement of Organization with the Commission. The Statement was dated October 19, 2009, but postmarked October 20, 2009, and not received by the Commission until October 26, 2009. This paragraph contains plaintiffs' characterizations of that Statement and 11 C.F.R. § 102.1(d), which speak for themselves, and to which no response is required.

11. Admit the Commission generally transmits materials regarding compliance with FECA to committee treasurers subsequent to registration. The Commission is without knowledge or information sufficient to admit or deny the allegation as to what Combat Veterans and its treasurer "would have and is presumed to have" received.

12. Admit that the Committee's 2009 Year-End Report was filed with the Commission on January 29, 2010. The Commission is without knowledge or information sufficient to admit or deny the allegation as to who filed the Report. Deny that Plaintiffs' Exhibit 2 is a complete copy of that report. This paragraph contains plaintiffs' characterizations of the 2009 Year-End Report and the 2 U.S.C. § 434, which speak for themselves, and to which no response is required.

13. Admit that the Commission sent a Request for Additional Information dated March 12, 2010, to the Committee and its then-treasurer regarding the Committee's 2009 Year-End Report. This paragraph contains plaintiffs' characterization of that request (Plaintiffs' Exhibit 3), which speaks for itself, and to which no response is required.

14. Admit that an amended 2009 Year-End Report for the Committee was filed on April 5, 2010. The Commission is without knowledge or information sufficient to admit or deny the allegation as to who filed the Report. Deny that Plaintiffs' Exhibit 4 is a complete copy of

that report.

15. Admit that the Committee's April 2010 Quarterly Report was filed with the Commission on April 15, 2010. The Commission is without knowledge or information sufficient to admit or deny the allegation as to who filed the Report. Deny that Plaintiffs' Exhibit 5 is a complete copy of that report.

16. Admit that the Commission sent a Request for Additional Information dated June 16, 2010, to the Committee and its then-treasurer, Michael Curry, regarding the Committee's April 2010 Quarterly Report. This paragraph contains plaintiffs' characterization of that request (Plaintiffs' Exhibit 6), which speaks for itself, and to which no response is required.

17. Admit that an amended April 2010 Quarterly Report for the Committee was filed electronically with the Commission by or on behalf of the Committee's then-treasurer on July 14, 2010. Deny that Plaintiffs' Exhibit 7 is a complete copy of that amended report.

18. Admit that a July 2010 Quarterly Report was filed electronically with the Commission by or on behalf of the Committee's then-treasurer on July 15, 2010. Deny that Plaintiffs' Exhibit 8 is a complete copy of that report.

19. Admit that the Commission sent a Request for Additional Information dated August 4, 2010, to the Committee and its then-treasurer, Michael Curry, regarding the Committee's amended April 2010 Quarterly Report. This paragraph contains plaintiffs' characterizations of that request (Plaintiffs' Exhibit 9), which speaks for itself, and to which no response is required. Admit that Mr. Curry did not submit a direct response to the Commission.

20. The Commission is without information or knowledge sufficient to admit or deny

the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 10, which speaks for itself, and to which no response is required.

21. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 10, which speaks for itself, and to which no response is required.

22. The Commission is without information or knowledge sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 32, which speaks for itself, to which no response is required.

23. Admit that the Committee's October 2010 Quarterly Report was due on October 15, 2010. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 11, which speaks for itself, and to which no response is required.

24. Admit that the Committee's October 2010 Quarterly Report was due on October 15, 2010, and admit that the Report was not filed by that date. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is required.

25. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterization of Plaintiffs' Exhibit 12, which speaks for itself, and to which no response is required.

26. Admit that on October 19, 2010, Mr. Curry telephoned the FEC Reports Analysis Division and that Plaintiffs' Exhibit 13 is a log of communications that includes that call.

The remainder of this paragraph contains plaintiffs' characterization of Exhibit 13, which speaks for itself, and to which no response is required.

27. Admit that the Committee's 2010 12-Day Pre-General Election Report was due on October 21, 2010, and that the report was not filed by that date. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is required.

28. Admit that on November 3, 2010, Mr. Curry telephoned the FEC Reports Analysis Division and that Plaintiffs' Exhibit 13 is a log of communications that includes that call. The remainder of this paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 13, which speaks for itself, and therefore no response is required.

29. Admit that the Commission sent a letter to the Committee and its then-treasurer, Michael Curry, dated November 4, 2010, regarding the Committee's October 2010 Quarterly Report. This paragraph contains plaintiffs' characterizations of that letter (Plaintiff's Exhibit 14), which speaks for itself, and to which no response is required.

30. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 34, which speaks for itself, and to which no response is required.

31. Admit that on November 8, 2010, Mr. Curry telephoned the FEC Reports Analysis Division and that Plaintiffs' Exhibit 13 is a log of communications that includes that call. The remainder of this paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 31, which speaks for itself, and to which no response is required.

32. Admit.

33. Admit that the Commission's Post-General Election Report was due on December 2, 2010. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 16, which speaks for itself, and to which no response is required. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is necessary.

34. Admit the statement in this paragraph, but deny that Plaintiffs' Exhibit 17 is a complete copy of the Committee's October 2010 Quarterly Report.

35. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 18, which speaks for itself, and to which no response is required.

36. Admit that the Committee's 2010 30-Day Post-General Election Report was due on December 2, 2010, and that the report was not filed by that date. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is required.

37. Admit that on December 2, 2010, Mr. Curry telephoned the FEC Reports Analysis Division and that Plaintiffs' Exhibit 13 is a log of communications that includes that call. The remainder of this paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 13, which speaks for itself, and to which no response is required.

38. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiff's Exhibit 19, which speaks for itself, and to which no response is required.

39. The Commission is without knowledge or information sufficient to admit or deny

the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 20, which speaks for itself, and to which no response is required.

40. The Commission is without knowledge of information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 42, which speaks for itself, and to which no response is required.

41. The Commission is without knowledge of information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 42, which speaks for itself, and to which no response is required.

42. The Commission is without knowledge of information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 43, which speaks for itself, and to which no response is required.

43. The Commission is without knowledge of information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 44, which speaks for itself, and to which no response is required.

44. Admit that on December 13, 2010, Mr. John telephoned the FEC Reports Analysis Division and that Plaintiffs' Exhibit 13 is a log of communications that includes that call. The remainder of this paragraph contains plaintiffs' characterizations of Plaintiff's Exhibit 13, which speaks for itself, and to which no response is required.

45. The Commission is without knowledge of information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 44, which speaks for itself, and to which no response is required.

46. Admit that on December 15, 2010, Mr. Curry telephoned the FEC Reports Analysis Division and that Plaintiffs' Exhibit 13 is a log of communications that includes that



call. The remainder of this paragraph contains plaintiffs' characterizations of Plaintiff's Exhibit 13, which speaks for itself, and to which no response is required.

47. Admit, but note that the Commission's reason to believe finding regarding the Committee's 2010 October Quarterly Report was made with respect to both the Committee and its treasurer in his official capacity..

48. The Commission is without knowledge of information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 44, which speaks for itself, and to which no response is required.

49. The Commission is without knowledge of information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 45, which speaks for itself, and to which no response is required.

50. Admit that the Commission sent a letter to the Committee and its assistant treasurer, Dan Backer, dated December 20, 2010, regarding the Committee's 2010 30-Day Post-General Election Report. This paragraph contains plaintiffs' characterizations of that letter (Plaintiff's Exhibit 22), which speaks for itself, and to which no response is required.

51. Admit that the Commission sent a Request for Additional Information dated December 22, 2010, to the Committee and its then-treasurer regarding the Committee's 2010 October Quarterly Report. This paragraph contains plaintiffs' characterization of that request (Plaintiffs' Exhibit 23), which speaks for itself, and to which no response is required.

52. The Commission is without knowledge of information sufficient to admit or deny the factual allegations in this paragraph. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 45, which speaks for itself, and to which no response is required.

53. Admit that on January 11, 2011, Mr. Backer telephoned the FEC Reports

Analysis Division and that Plaintiffs' Exhibit 13 is a log of communications that includes that call. The remainder of this paragraph contains plaintiffs' characterizations of Plaintiff's Exhibit 13, which speaks for itself, and to which no response is required.

54. Admit that the Committee's 2010 Pre-General and 30-Day Post-General Election Reports were filed on January 11, 2011, and that the latter of these reports was due on December 2, 2010. Deny that the Pre-General report was due on October 25, 2010; that report was due on October 21, 2010. Deny that Plaintiffs' Exhibits 24 and 25 are complete copies of those reports. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is necessary.

55. Admit.

56. Admit that the Committee's April 2010, July 2010 and October 2010 Quarterly Reports, and the Committee's 2010 Pre-General and 30-Day Post-General Reports were amended on January 25, 2011. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibits 27-31, which speak for themselves, and to which no response is required. Deny that Plaintiffs' Exhibits 27-31 are complete copies of those reports.

57. Admit that on January 25, 2011, Mr. Backer telephoned the FEC Reports Analysis Division and that Plaintiffs' Exhibit 13 is a log of communications that includes that call. The remainder of this paragraph contains plaintiffs' characterizations of Plaintiff's Exhibit 13, which speaks for itself, and to which no response is required.

58. Admit that on February 4, 2011, Mr. Backer telephoned the FEC Reports Analysis Division and that Plaintiffs' Exhibit 13 is a log of communications that includes that call. The remainder of this paragraph contains plaintiffs' characterizations of Plaintiff's Exhibit 13, which speaks for itself, and to which no response is required.

59. Admit that on February 4, 2011, Mr. John telephoned the FEC Reports Analysis Division and that Plaintiffs' Exhibit 13 is a log of communications that includes that call. The remainder of this paragraph contains plaintiffs' characterizations of Plaintiff's Exhibit 13, which speaks for itself, and to which no response is required.

60. Admit that on February 16, 2011, Mr. John spoke with the FEC Reports Analysis Division and that Plaintiffs' Exhibit 13 is a log of communications that includes that call. The remainder of this paragraph contains plaintiffs' characterizations of Plaintiff's Exhibit 13, which speaks for itself, and to which no response is required.

61. Admit. Deny that Plaintiffs' Exhibit 32 supports the factual allegations in this paragraph.

62. Admit that the Commission received a letter dated March 22, 2011, from Joseph R. John, Chairman of Combat Veterans for Congress PAC, regarding AF# 2199 (Plaintiffs' Exhibit 10). The letter was received by the Commission on March 29, 2011. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 10, which speaks for itself, and to which no response is required. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is required.

63. Admit that the Commission received a letter dated March 23, 2011, from Joseph R. John, Chairman of Combat Veterans for Congress PAC, regarding AF# 2312 (Plaintiffs' Exhibit 33). The letter was received by the Commission on March 28, 2011. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 33, which speaks for itself, and to which no response is required. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is required.

64. Admit. Deny that Plaintiffs' Exhibit 34 supports the factual allegations in this

paragraph.

65. Admit that the Commission received a letter dated March 31, 2011, from Joseph R. John, Chairman of Combat Veterans for Congress PAC, regarding AF# 2335 (Plaintiffs' Exhibit 35). The letter was received by the Commission on April 4, 2011. This paragraph contains plaintiffs' characterizations of Plaintiffs' Exhibit 35, which speaks for itself, and to which no response is required. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is required.

66. Admit the statement in this paragraph, but deny that Plaintiffs' Exhibit 36 is a complete copy of the notification.

67. Admit the statement in this paragraph, but deny that Plaintiffs' Exhibit 37 is a complete copy of the notification.

68. Admit that the Commission received a letter dated June 24, 2011, from Dan Backer (Plaintiffs' Exhibit 38). The letter was received by the Commission on the same date. This paragraph contains plaintiffs' characterizations regarding that letter, which speaks for itself, and contains conclusions of law, to which no responses are required.

69. Admit that the Commission's Office of General Counsel prepared a memorandum to Dayna Brown, Reviewing Officer, dated August 18, 2011 (Plaintiffs' Exhibit 47). This paragraph contains plaintiffs' characterizations of that letter, which speaks for itself, and to which no response is required.

70. Admit that on October 12, 2011, Patricia Carmona and Dayna Brown made recommendations about final determinations regarding the Committee's October 2010 Quarterly Report, 2010 12-Day Pre-General Election Report, and 2010 30-Day Post-General Election Reports and also recommended that the fines listed be imposed (Plaintiffs' Exhibit 39). Deny

that Plaintiffs' Exhibit 39 is a complete copy of that document. This paragraph contains plaintiffs' characterizations of this document, which speaks for itself, and to which no response is required.

71. Admit that the Commission made final determinations that the Committee and David H. Wiggs, in his official capacity as treasurer, violated 2 U.S.C. 434(a) by filing the Committee's 2010 Quarterly Report, 12-Day Pre-General Election Report and 30-Day Post-General Report late and that the Commission imposed the fines listed. Deny the second and third sentences of this paragraph, and deny that Plaintiffs' Exhibit 39 supports the allegations in this paragraph.

72. Admit that letters dated November 4, 2011, were sent by the Commission to plaintiffs to notify them of the Commission's final determinations in AF## 2199, 2312, and 2355. A copy of the Commission's letter in AF# 2199 is attached to the Complaint as Plaintiffs' Exhibit 40. These letters were sent the Committee and its treasurer by certified mail on or about November 4, 2011, and additional copies also were sent by facsimile to Dan Backer on November 7, 2011.

73. Admit that the Commission received a letter dated November 23, 2011, from Dan Backer (Plaintiffs' Exhibit 41). This paragraph contains plaintiffs' characterizations of that letter and 2 U.S.C. § 437g(a)(4)(C)(iii), which speak for themselves, and to which no responses are necessary. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is necessary. Deny that plaintiffs' rights under 2 U.S.C. § 437g(a)(4)(C)(iii) or their Due Process or First Amendment rights were violated in AF## 2199, 2312, and 2355. Admit that as of the date of plaintiffs' petition, the FEC had not yet responded, but note that the FEC did respond on December 9, 2011.

### COUNT I

Deny the allegation in the heading below the “Count I” heading of plaintiffs’ Petition.

74. The Commission incorporates by reference its responses to paragraphs 1 through 73 *supra*.

75. This paragraph contains plaintiffs’ characterization of 2 U.S.C. § 437g(a)(4)(C)(ii), which speaks for itself, and to which no response is required.

76. Deny.

77. This paragraph contains plaintiffs’ characterizations of 2 U.S.C. § 437g, which speaks for itself, and therefore no response is required. Insofar as this paragraph also contains conclusions of law, no response is necessary. Deny that 2 U.S.C. § 437g requires “an in-person hearing before the Commission” in order for the Commission make a final determination of an administrative fine.

78. Admit that the Commission received a letter from plaintiffs dated November 23, 2011, and that the Commission did not offer plaintiffs an in-person hearing. Deny the remainder of the paragraph.

79. Deny.

### COUNT II

Deny the allegations in the headings below the “Count II” heading of plaintiffs’ Petition.

80. The Commission incorporates by reference its responses to paragraphs 1 through 79 *supra*.

81. This paragraph contains plaintiffs’ characterizations of provisions of the Federal Election Campaign Act of 1971, as amended (“FECA”), including 2 U.S.C. § 434(a)(1), which speak for themselves, and therefore no response is required. Insofar as this paragraph also

contains conclusions of law, no response is necessary.

82. This paragraph contains plaintiffs' characterizations of FECA, and 11 C.F.R. §§ 104.1(a), 104.14(d), and a judicial decision, which speak for themselves, and therefore no response is required. Insofar as this paragraph also contains conclusions of law, no response is necessary.

83. This paragraph contains plaintiffs' characterization of FECA, including 2 U.S.C. §§ 432(c), 432(d), and the Commission's interpretations of FECA and the regulations as embodied in the Statement of Policy Regarding Treasurers Subject To Enforcement Proceedings, 70 Fed. Reg. 1 (Jan. 3, 2005), all of which speak for themselves, and therefore no response is required. Insofar as this paragraph also contains plaintiffs' conclusions of law, no response is required.

84. This paragraph contains plaintiffs' characterization of FECA and the Commission's Campaign Guide for Non-Connected Committees (2008), which speak for themselves, and therefore no response is required. Insofar as this paragraph also contains plaintiffs' conclusions of law, no response is required.

85. This paragraph contains plaintiffs' characterization of FECA, the Commission's regulations, and the Commission's interpretations of FECA and those regulations as embodied in the Statement of Policy Regarding Treasurers Subject To Enforcement Proceedings, 70 Fed. Reg. 1 (Jan. 3, 2005), all of which speak for themselves, and therefore no response is required. Insofar as this paragraph also contains plaintiffs' conclusions of law, no response is required.

86. This paragraph contains plaintiffs' characterizations of 2 U.S.C. § 434(a), which speaks for itself, and conclusions of law, and therefore no response is required.

87. This paragraph contains plaintiffs' characterizations of a judicial decision, which speaks for itself, and conclusions of law, and therefore no response is required.

88. This paragraph contains plaintiffs' characterization of Black's Law Dictionary, which speaks for itself, and conclusions of law, and therefore no response is required.

Subheading B. The allegations in the heading in between paragraphs 88 and 89 appear to contain a legal conclusion, to which no response is required.

89. The Commission incorporates by reference its responses to paragraphs 1 through 88 *supra*.

90. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. Insofar this paragraph contains plaintiffs' conclusions of law, no response is necessary.

91. The Commission incorporates by reference its responses to paragraphs 15 and 18, *supra*. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is necessary.

92. The Commission incorporates by reference its response to paragraph 23, *supra*.

93. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is necessary.

94. The Commission incorporates by reference its responses to paragraph 28, *supra*.

95. The Commission incorporates by reference its responses to paragraphs 33 and 35, *supra*. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is necessary.

96. The Commission incorporates by reference its responses to paragraph 29, *supra*.



97. Deny that the Committee's former treasurer "prevented" the Committee from filing its FEC reports. The Commission is without knowledge or information sufficient to admit or deny the remaining factual allegations in this paragraph. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is necessary.

98. The Commission incorporates by reference its responses to paragraph 19, *supra*. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is necessary.

99. The Commission incorporates by reference its responses to paragraph 25, *supra*.

100. The Commission incorporates by reference its responses to paragraphs 21 and 46, *supra*. The Commission is without knowledge or information sufficient to admit or deny the factual allegations in this paragraph. Insofar as this paragraph contains plaintiffs' conclusions of law, no response is necessary.

101. This paragraph contains plaintiffs' conclusions of law, therefore no response is necessary. Deny the second sentence. Plaintiffs' allegations about any Commission action regarding the Committee's former treasurer, Michael Curry, are not properly raised in this lawsuit, which challenges the Commission's final determinations in AF## 2199, 2312, and 2355. Plaintiffs have not filed an administrative complaint with the Commission regarding Mr. Curry pursuant to 2 U.S.C. § 437g(a)(1), the Commission has not dismissed such a complaint, and plaintiffs' have not alleged jurisdiction pursuant to 2 U.S.C. § 437g(a)(8).

102. Deny.

103. Deny.

**COUNT III**

Deny the allegations in the heading below the “Count III” heading of plaintiffs’ Petition.

104. The Commission incorporates by reference its responses to paragraphs 1 through 103 *supra*.

105. This paragraph characterizes the Commission’s reason to believe determinations and contains plaintiffs’ conclusions of law, and therefore no response is necessary.

106. Deny.

107. This paragraph contains plaintiffs’ characterization of 11 C.F.R. § 111.35(c), which speaks for itself, and therefore no response is necessary.

108. This paragraph contains plaintiffs’ conclusions of law, and therefore no response is necessary.

109. Deny.

110. Deny.

111. Deny.

**COUNT IV**

Deny the allegations in the heading below the “Count IV” heading of plaintiffs’ Petition.

112. The Commission incorporates by reference its responses to paragraphs 1 through 111 *supra*.

113. The Commission incorporates by reference its responses to paragraphs 69 and 70, *supra*. This paragraph contains plaintiffs’ characterizations of those documents, which speak for themselves, and therefore no response is required.

114. Deny.

115. Deny.

**COUNT V**

Deny the allegations in the heading below the “Count V” heading of plaintiffs’ Petition.

116. The Commission incorporates by reference its responses to paragraphs 1 through 115 *supra*.

117. Deny.

118. Deny the legal allegations in this paragraph. The Commission is without knowledge or information sufficient to form a belief regarding the factual allegations of the paragraph.

119. Deny the legal allegations in this paragraph. The Commission is without knowledge or information sufficient to form a belief regarding the factual allegations of the paragraph.

**PRAYER FOR RELIEF**

No response is required to plaintiffs’ prayer for relief, but the Commission denies that any relief should be granted.

**AFFIRMATIVE DEFENSES**

1. The Petition fails to state a claim upon which relief can be granted.
2. The Court lacks jurisdiction over any claims plaintiffs raise regarding the Commission’s decisions with respect to the Committee’s former treasurer, Michael Curry, in AF## 2199, 2312, and 2355.
3. To the extent that plaintiffs challenge the Commission’s administrative fines regulations, such challenges are barred by the applicable statute of limitations.

4. Plaintiffs' claims other than constitutional claims are barred by the doctrine of waiver.

Respectfully submitted,

Anthony Herman (D.C. Bar No. 424643)  
General Counsel

David Kolker (D.C. Bar No. 394558)  
Associate General Counsel

Harry J. Summers  
Assistant General Counsel

/s/ Robert W. Bonham III  
Robert W. Bonham III (D.C. Bar. No. 397859)  
Senior Attorney

March 23, 2012

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