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

THE REAL TRUTH ABOUT OBAMA, INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 3:08-cv-00483-JRS
	)	
FEDERAL ELECTION COMMISSION,	)	
U.S. DEPARTMENT OF JUSTICE,	)	
	)	
Defendants.	)	

UNITED STATES DEPARTMENT OF JUSTICE'S ANSWER TO PLAINTIFF'S AMENDED VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Defendant United States Department of Justice (hereinafter, the "Department") hereby submits this answer to The Real Truth About Obama, Inc.'s (RTAO's) Amended Verified Complaint for Declaratory and Injunctive Relief (hereinafter, "Amended Complaint"). The Department denies all allegations in Plaintiff's Amended Complaint not expressly admitted or qualified herein.

1. The first sentence of this paragraph contains Plaintiff's characterization of the Amended Complaint, which speaks for itself, but the Department 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 Department 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 Amended Complaint. This characterization requires no response.

3. DENY that the Court has jurisdiction over the claims made in this Amended Complaint. DENY that the Federal Election Commission's (hereinafter, "Commission") 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 Department 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 Department is unable to admit or deny that part of the paragraph.

7. ADMIT that the Department of Justice is an executive department of the United States, with the Attorney General as its head, and that it is headquartered in Washington, D.C. ADMIT that the Department of Justice 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, and, regarding civil suits, that, "[e]xcept as otherwise authorized by law, the conduct of litigation in which the United States, an agency, or officer thereof is a party, or is interested, . . . is

reserved to officers of the Department of Justice, under the direction of the Attorney General." 28 U.S.C. § 516.

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 Department is without knowledge or information sufficient to admit or deny the remaining allegations in the paragraph.

10. The Department 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 Department 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 Department is without knowledge or information sufficient to admit or deny the other allegations in this paragraph.

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

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

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

18. The Department 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.

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

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

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

22. DENY that RTAO is chilled from proceeding with its activities, and DENY that RTAO "reasonably" believes that it will be subject to an FEC and DOJ investigation and possible enforcement action as a result of the described advertisements. The Department 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. The Department 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.

24. DENY that RTAO is chilled from proceeding with its activities. The remaining allegations characterize communications between the Department and Democracy 21, which speak for themselves.

25. DENY that RTAO's alleged fears are reasonable. The Department 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 that RTAO's alleged fears are reasonable and that the Commission's regulations are vague or overbroad. The Department 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.

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

28. DENY.

29. The Department incorporates by reference all responses contained in the preceding paragraphs.

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

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

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

33. 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.

34. DENY that 11 C.F.R. § 100.22(b) is beyond the Commission's statutory authority. This paragraph describes judicial decisions and contains conclusions of law, to which no response is necessary.

35. DENY.

36. The Department incorporates by reference all responses contained in the preceding paragraphs.

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

38. 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.

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

40. DENY that 11 C.F.R. § 100.57 exceeds the Commission's statutory authority. The remainder of this paragraph contains conclusions of law, to which no response is necessary.

41. DENY.

42. The Department incorporates by reference all responses contained in the preceding paragraphs.

43. 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."

44. 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.

45. 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.

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

47. 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.

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

49. DENY.

50. The Department incorporates by reference all responses contained in the preceding paragraphs.

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

52. 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.

53. This paragraph contains Plaintiff's characterizations of judicial decisions, which speak for themselves.

54. 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 beyond the Commission's statutory authority, unconstitutional or otherwise impermissible.

55. DENY.

PRAYER FOR RELIEF

The remainder of the Amended Complaint contains Plaintiff's Request for Relief to which no response is required; to the extent a response is deemed necessary, deny that Plaintiff is entitled to the relief requested in the Request for Relief, or to any relief whatsoever.

AFFIRMATIVE DEFENSES

1. The Court lacks jurisdiction over this matter.

2. Plaintiff's claims are not justiciable.

3. Plaintiff fails to state a claim for which relief can be granted.

Respectfully submitted,

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By: /s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of October, 2008 I have electronically filed the foregoing pleading 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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I also certify that on the 31st day of October, 2008 I will mail a copy of the foregoing pleading by U.S. Mail to the following non-ECF users:

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