

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Christopher Shays and Martin Meehan,

Plaintiffs,

v.

United States Federal Election Commission,

Defendant.

Civil Action No. 02-CV-1984  
(Judge Kollar-Kotelly)

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PLAINTIFFS' STATEMENT OF GENUINE ISSUES IN OPPOSITION TO  
DEFENDANT FEDERAL ELECTION COMMISSION'S  
STATEMENT OF MATERIAL FACTS NOT IN GENUINE DISPUTE

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Pursuant to LCvRs 7(h) and 56.1, plaintiffs Christopher Shays and Martin Meehan, by their undersigned counsel, hereby submit the following statement of genuine issues in opposition to defendant Federal Election Commission's Statement of Material Facts Not in Genuine Dispute filed on February 27, 2004 (Dkt. No. 27). Plaintiffs do not dispute the underlying facts with the exception of correcting certain minor mistakes. Plaintiffs do, however, dispute some of the Commission's characterizations of, and inferences from, those facts. Plaintiffs also incorporate by reference, as if set forth in full herein, their February 27, 2004 Statement of Material Facts As To Which Plaintiffs Contend There Is No Genuine Dispute (Dkt. No. 29).

1. Undisputed, except that H.R. 2356 was considered and passed by the United States House of Representatives on February 13, 2002, and then considered and passed by the United States Senate on March 18-20, 2002.

2. Undisputed.

3. Undisputed.

4. Undisputed, subject to the power of the federal courts to review Commission action with respect to the administration, interpretation, and civil enforcement of FECA.

5. Undisputed, except as to the ambiguous and debatable term “broad,” and subject to the many limits on such authority imposed by FECA, BCRA, and the APA, among other laws.

6. Undisputed, except as to the incorrect quotation — “Excessive and Prohibited Contributions: Non-federal Funds of Soft Money Proposed Rule” should be “Prohibited and Excessive Contributions; Non-Federal Funds or Soft Money; Proposed Rules.”

7. Undisputed, except to the extent that the use of the word “considering” suggests that the Commission gave proper, reasoned consideration to the comments and testimony before it. The Commission failed to give lawful consideration to the comments and testimony before it; failed to provide a reasoned analysis for its rules; and failed to follow the statutory language and structure, canons of construction, legislative intent, or purposes and spirit of FECA and BCRA.

8. Undisputed, except as to the incorrect date — Oct. 3, 2002 should be Oct. 23, 2002.

9. Undisputed, except with respect to the use of the word “considering” as discussed in ¶ 7 *supra*.

10. Undisputed, except as to the incorrect quotation — “Contributions Limits and Prohibitions” should be “Contribution Limitations and Prohibitions.”

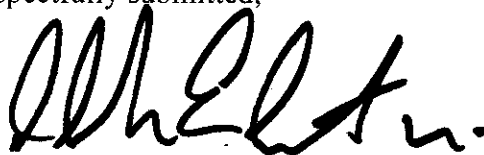
11. Undisputed, except with respect to the use of the word “considering” as discussed in ¶ 7 *supra*.

12. Undisputed.

13. Undisputed, except with respect to the use of the word “considering” as discussed in ¶ 7 *supra*.

Dated this 31st day of March, 2004.

Respectfully submitted,



Roger M. Witten (Bar No. 163261)  
David A. O'Neil (*pro hac vice*)  
WILMER CUTLER PICKERING LLP  
399 Park Avenue  
New York, New York 10022  
(212) 230-8800

Charles G. Curtis, Jr. (*pro hac vice*)  
Michelle M. Umberger (Bar No. 480620)  
Michael M. Markman  
Sarah E. Reindl  
HELLER EHRMAN WHITE & McAULIFFE LLP  
One East Main Street, Suite 201  
Madison, Wisconsin 53703  
(608) 663-7460

Randolph D. Moss (Bar No. 417749)  
Stacy E. Beck (Bar No. 480540)  
WILMER CUTLER PICKERING LLP  
2445 M Street, N.W.  
Washington, D.C. 20037  
(202) 663-6000

Brent N. Rushforth (Bar No. 331074)  
Carl S. Nadler (Bar No. 395279)  
Martina M. Stewart  
HELLER EHRMAN WHITE & McAULIFFE LLP  
1666 K Street, N.W., Suite 300  
Washington, D.C. 20006  
(202) 912-2000

Donald J. Simon (Bar No. 256388)  
SONOSKY, CHAMBERS, SACHSE,  
ENDRESON & PERRY LLP  
1425 K Street, N.W., Suite 600  
Washington, D.C. 20005  
(202) 682-0240

Fred Wertheimer (Bar No. 154211)  
Alexandra Edsall (Bar No. 453518)  
DEMOCRACY 21  
1825 Eye Street, N.W., Suite 400  
Washington, D.C. 20006  
(202) 429-2008

*Attorneys for Plaintiffs Christopher Shays  
and Martin Meehan*