

**IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE  
AT NASHVILLE**

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DAVIDSON COUNTY CHANCERY COURT

N.C. & M.

**TENNESSEANS FOR SENSIBLE ELECTION LAWS,** )  
 )  
 )  
 **Plaintiff,** )  
 )  
 **v.** )  
 )  
 **TENNESSEE BUREAU OF ETHICS AND CAMPAIGN FINANCE, REGISTRY OF ELECTION FINANCE, and DAVIDSON COUNTY DISTRICT ATTORNEY GENERAL,** )  
 )  
 **Defendants.** )

**Case No. 18-821-III**

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**ANSWER**

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Defendants, by and through their counsel of record, the Attorney General and Reporter for the State of Tennessee, hereby answer Plaintiff's Verified Complaint as follows:

**I. INTRODUCTION**

1. Defendants are without sufficient information and knowledge to admit or deny the factual allegations in paragraph 1 and would demand strict proof thereof.
2. Defendants are without sufficient information and knowledge to admit or deny the factual allegations in paragraph 2 strict proof thereof.
3. Defendants admit that Tennesseans for Sensible Election Laws ("TSEL") has made direct contributions and expenditures regarding state and local candidates for public office. Defendants admit that during 2018, TSEL reported over \$3,000 in contributions and other expenditures. Defendants are otherwise without sufficient information and knowledge to admit or

deny the remaining factual allegations contained in paragraph 3 and would demand strict proof thereof.

4. Defendants are without sufficient information and knowledge to admit or deny the factual allegations in paragraph 4 and would demand strict proof thereof.

5. Defendants admit that TSEL reported on its campaign financial disclosure statement making a \$300 contribution to Joseph Williams on June 22, 2018. Defendants are otherwise without sufficient information and knowledge to admit or deny the remaining factual allegations contained in paragraph 5 and would demand strict proof thereof.

6. Defendants admit that Mr. Williams was a candidate for Tennessee House District 56, the seat that is currently held by Speaker Beth Harwell. Defendants deny Plaintiff's characterization of the 10-day period before Election Day, August 2, 2018, as "critical." Defendants are otherwise without sufficient information and knowledge to admit or deny the remaining factual allegations contained in paragraph 6 and would demand strict proof thereof.

7. Defendants are without sufficient information and knowledge to admit or deny the factual allegations in paragraph 7 and would demand strict proof thereof.

8. Defendants admit that TSEL has registered as a multicandidate political campaign committee that is subject to the contribution limitations of Tennessee Code Annotated § 2-10-117. Defendants are otherwise without sufficient information and knowledge to admit or deny the remaining factual allegations contained in paragraph 8 and would demand strict proof thereof. Defendants make no response to the legal conclusions contained in paragraph 8.

9. Paragraph 9 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusions contained in paragraph 9.

10. Paragraph 10 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusions contained in paragraph 10.

11. Defendants admit that Plaintiff seeks the relief enumerated in paragraph 11 but denies that Plaintiff is entitled to such relief. All other factual allegations in paragraph 11 are denied.

12. Paragraph 12 contain a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion contained in paragraph 12.

13. Paragraph 13 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion contained in paragraph 13.

14. Paragraph 14 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion contained in paragraph 14.

15. Paragraph 15 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion contained in paragraph 15.

16. Paragraph 16 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion contained in paragraph 16.

## II. PARTIES

17. Defendants admit that TSEL has registered as a Tennessee multicandidate political campaign committee, and that such committees are commonly known as “PACs.” Defendants are otherwise without sufficient information and knowledge to admit or deny the remaining factual allegations contained in paragraph 17 and would demand strict proof thereof.

18. Defendants admit that the Tennessee Bureau of Ethics and Campaign Finance, Registry of Election Finance (“Registry”) is the agency of state government responsible for administering and enforcing the Campaign Financial Disclosure Act of 1980 (the “Act”), Tenn. Code Ann. §§ 2-10-101 *et seq.*, and that its duties are set forth in the Act, which speaks for itself and is the best evidence of the Defendants’ duties. Defendants admit that the current members of the Registry are William (Paz) Haynes, III, Henry Fincher, Tom Lawless, and Tom Morton.

19. Defendants admit that the Davidson County District Attorney General is the District Attorney General for Tennessee’s 20<sup>th</sup> Judicial District and has the prosecutorial duties set forth in Tennessee Code Annotated § 8-7-103. To the extent paragraph 19 refers to the provisions of Tenn. Code Ann. § 2-19-102, that statute speaks for itself and is the best evidence of what the statute provides.

## III. JURISDICTION, AUTHORITY, AND VENUE

20. Defendants admit that this Court has jurisdiction over this action.

21. Defendants admit that this Court may issue declaratory and injunctive relief. Defendants aver that Plaintiff is not entitled to any relief.

22. Defendants admit that venue is proper in this Court.

#### IV. FACTUAL ALLEGATIONS

23. Defendants admit that TSEL has registered as a Tennessee multicandidate political campaign committee with the Registry, and that such committees are commonly known as “PACs.” Defendants admit that Exhibit 11 appears to be an accurate copy of TSEL’s Appointment of Political Treasurer form.

24. Defendants admit that the Registry assessed TSEL a \$100 registration fee in 2017 and 2018. To the extent paragraph 24 refers to the provisions of Tenn. Code Ann. § 2-10-121, that statute speaks for itself and is the best evidence of what the statute provides.

25. Defendants admit that TSEL paid the \$100 registration fee in 2017 and 2018.

26. Defendants admit that TSEL has registered as Tennessee multicandidate political campaign committee. Defendants are otherwise without sufficient information and knowledge to admit or deny the remaining factual allegations contained in paragraph 26 and would demand strict proof thereof. Defendants make no response to the legal conclusions contained in paragraph 26 and, to the extent paragraph 26 appears to summarize the provisions of Tenn. Code Ann. §§ 2-10-117, 2-10-102(12)(B), 2-10-102(9) and 2-10-121, these statutes speak for themselves and are the best evidence of what each statute provides.

27. Defendants admit that TSEL has registered as Tennessee multicandidate political campaign committee. Defendants are otherwise without sufficient information and knowledge to admit or deny the remaining factual allegations contained in paragraph 27 and would demand strict proof thereof. Defendants make no response to the legal conclusions contained in paragraph 27 and, to the extent paragraph 27 appears to summarize the provisions of Tenn. Code Ann. §§ 2-10-117, 2-10-102(12)(B), 2-10-102(9) and 2-10-121, these statutes speak for themselves and are the best evidence of what each statute provides.

28. Defendants admit that TSEL has registered as Tennessee multicandidate political campaign committee. Defendants are otherwise without sufficient information and knowledge to admit or deny the remaining factual allegations contained in paragraph 28 and would demand strict proof thereof. Defendants make no response to the legal conclusions contained in paragraph 27 and, to the extent paragraph 28 appears to summarize the provisions of Tenn. Code Ann. §§ 2-10-117, 2-10-102(12)(B), 2-10-102(9) and 2-10-121, these statutes speak for themselves and are the best evidence of what each statute provides.

29. Defendants admit that TSEL has registered as Tennessee multicandidate political campaign committee. Defendants are otherwise without sufficient information and knowledge to admit or deny the remaining factual allegations contained in paragraph 29 and would demand strict proof thereof. Defendants make no response to the legal conclusions contained in paragraph 27 and, to the extent paragraph 29 appears to summarize the provisions of Tenn. Code Ann. §§ 2-10-117, 2-10-102(12)(B), 2-10-102(9) and 2-10-121, these statutes speak for themselves and are the best evidence of what each statute provides.

30. Paragraph 30 contains legal conclusions for which no response is required.

31. Admitted.

32. Defendants admit that Joseph Williams and Brent Moody were the Republican primary candidates for Tennessee House District 56, which seat is currently held by Speaker Beth Harwell.

33. Defendants are without sufficient information and knowledge to admit or deny the factual allegations in paragraph 33 and would demand strict proof thereof.

34. Defendants admit that Joseph Williams was a candidate in the Republican primary election for the office of Tennessee House District 56. Defendants are without sufficient

information and knowledge to admit or deny the other factual allegations in paragraph 34 and would demand strict proof thereof.

35. Defendants admit that Brent Moody was a candidate in the Republican primary election for the office of Tennessee House District 56. Defendants are without sufficient information and knowledge to admit or deny the other factual allegations in paragraph 35 and would demand strict proof thereof.

36. Defendants admit that TSEL reported on its campaign financial disclosure statement making a \$300 contribution to Joseph Williams on June 22, 2018. Defendants are otherwise without sufficient information and knowledge to admit or deny the remaining factual allegations in paragraph 36 and would demand strict proof thereof.

37. Defendants admit that at the time Plaintiff filed its Verified Complaint, early voting was underway for the August 2, 2018, Republican primary election for Tennessee House District 56. Defendants are otherwise without sufficient information and knowledge to admit or deny the remaining factual allegations in paragraph 37 and would demand strict proof thereof.

38. Defendants are without sufficient information and knowledge to admit the factual allegations in paragraph 38 and would demand strict proof thereof. Defendants make no response to the legal conclusions contained in paragraph 38.

39. Defendants are without sufficient information and knowledge to admit or deny the factual allegations in paragraph 39 and would demand strict proof thereof.

40. Admitted.

41. Paragraph 41 appears to contain a summary of the provisions of Tenn. Code Ann. § 2-10-117; however, the statute speaks for itself and is the best evidence of what that statute provides.

42. Paragraph 42 contains a legal conclusion for which no response is required.

43. Paragraph 43 contains a legal conclusion for which no response is required.

Defendants admit that paragraph 43 appears to contain a partial accurate quotation of Tenn. Code Ann. §§ 2-19-102, 40-35-111(e)(3) and 2-10-110(a)(2), however, these statutes speak for themselves and are the best evidence of what each statute provides.

44. Defendants admit that Exhibit 10 appears to be an accurate copy of a Show Cause Notice issued by the Registry. Defendants deny that the Registry actively prosecutes violations of Tenn. Code Ann. § 2-10-117 and further, avers that no penalty was assessed against the recipients of the Show Cause Notice referenced in Exhibit 10.

45. Defendants admit that Appointment of Political Treasure Form for Multi-Candidate Committees (PACs) asks the committee to certify whether it is “controlled by a political party on the national, state of [sic] local level or by a caucus of a political party established by the members of either house of the general assembly.” Defendants deny the remaining factual allegations and legal conclusions contained in paragraph 45.

46. Defendants admit that the Registry enforces the registration fee regulations set forth in Tennessee Code Annotated § 2-10-121. Defendants deny the remaining factual allegations and legal conclusions contained in paragraph 46.

47. Defendants admit that the Registry provides a handout to candidates for state and local public office that contains a section on “Frequently Asked Questions,” however, that documents speaks for itself and is the best evidence of what the document provides. Defendants deny the remaining factual allegations and legal conclusions contained in paragraph 47.



48. Paragraph 48 appears to contain a partial accurate quotation from Atty. Gen. Op. No. 03-112 (Sept. 9, 2003), however, that Opinion speaks for itself and is the best evidence of what the opinion states.

49. Defendants are without sufficient information and knowledge to admit or deny the factual allegations contained in paragraph 49 and would demand strict proof thereof.

50. Defendants are without sufficient information and knowledge to admit or deny the factual allegations contained in paragraph 50 and would demand strict proof thereof.

51. Defendants admit that State Representative Gerald McCormick was a candidate in the Republican primary election for Tennessee House District 26, who withdrew his name from the ballot pursuant to Tenn. Code Ann. § 2-5-101(g)(1). Defendants further admit that TSEL reported on its campaign financial disclosure statement making a \$250 contribution to Rep. McCormick. Defendants are without sufficient information and knowledge to admit or deny the factual allegations contained in paragraph 51 and would demand strict proof thereof.

52. Defendants are without sufficient information and knowledge to admit or deny the factual allegations contained in paragraph 52 and would demand strict proof thereof.

53. Defendants are without sufficient information and knowledge to admit or deny the factual allegations contained in paragraph 53 and would demand strict proof thereof.

54. Defendants admit that a Nashville mayoral election was held on May 24, 2018. Defendants are without sufficient information and knowledge to admit or deny the factual allegations contained in paragraph 54 and would demand strict proof thereof.

55. Defendants are without sufficient information and knowledge to admit or deny the factual allegations contained in paragraph 55 and would demand strict proof thereof; however, Defendants deny that Plaintiff's contribution to Mayor Briley's campaign was untimely in

accordance with Tenn. Comp. R. & Regs. 0530-01-01-.03, which provides that a PAC's non-cash campaign contribution is deemed to have been made and to be reportable in the period in which the check or other written instrument is written to a candidate or political campaign committee.

56. Defendants are without sufficient information and knowledge to admit or deny the factual allegations contained in paragraph 56 and would demand strict proof thereof.

57. Defendants admit that the election of David Briley as Mayor created a vacancy in the office of Vice-Mayor; however Defendants deny that the election to fill the vacancy in the office of Vice-Mayor is scheduled for August 2, 2018, or that Plaintiff has only thirty-eight days to vet the candidate's positions and make a contribution. Defendants are otherwise without sufficient information and knowledge to admit or deny the remaining factual allegations contained in paragraph 57 and would demand strict proof thereof. To the extent paragraph 57 contains legal conclusions as to the burden imposed on Plaintiff, Defendants deny that such legal conclusions.

58. Paragraph 58 contains legal conclusions for which no response is required. To the extent paragraph 58 contains any factual allegations, Defendants are without sufficient information and knowledge to admit or deny the factual allegations and would demand strict proof thereof.

59. Paragraph 59 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

60. Paragraph 60 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

61. Paragraph 61 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

62. Paragraph 62 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

63. Paragraph 63 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants admit the legal conclusion.

64. Paragraph 64 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

65. Paragraph 65 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

66. Paragraph 66 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

67. Paragraph 67 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

68. Paragraph 68 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

69. Paragraph 69 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

## V. CAUSES OF ACTION

### 1. Violation of the First and Fourteenth Amendments (Speaker Discrimination)

70. Defendants incorporate their responses to paragraphs 1-69. To the extent paragraph 70 contains factual allegations not fully responded to above, those allegations are denied.

71. Paragraph 71 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

72. Paragraph 72 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

### 2. Violation of the First and Fourteenth Amendments (Discrimination Based on Political Association)

73. Defendants incorporate their responses to paragraphs 1-72. To the extent paragraph 73 contains factual allegations not fully responded to above, those allegations are denied.

74. Paragraph 74 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

**3. Violation of the First and Fourteenth Amendments (Content Discrimination)**

75. Defendants incorporate their responses to paragraphs 1-74. To the extent paragraph 75 contains factual allegations not fully responded to above, those allegations are denied.

76. Paragraph 76 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

**4. Violation of the First and Fourteenth Amendments (Freedom of Speech)**

77. Defendants incorporate their responses to paragraphs 1-76. To the extent paragraph 77 contains factual allegations not fully responded to above, those allegations are denied.

78. Paragraph 78 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

**5. Violation of the First and Fourteenth Amendments (Discrimination Based on Political Association)**

79. Defendants incorporate their responses to paragraphs 1-78. To the extent paragraph 79 contains factual allegations not fully responded to above, those allegations are denied.

80. Paragraph 59 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

**6. Violation of Tenn. Const. art. I, § 19**

81. Defendants incorporate their responses to paragraphs 1-80. To the extent paragraph 81 contains allegations not fully responded to above, those allegations are denied.

82. Paragraph 82 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

83. Paragraph 83 contains a legal conclusion for which no response is required; however, to the extent a response is required, Defendants deny the legal conclusion.

#### **PRAYER FOR RELIEF**

84. Defendants deny that Plaintiff is entitled to any of the relief prayed for in its Verified Complaint and pray that the Verified Complaint be dismissed with prejudice and with costs assessed to the Plaintiff. Defendants further pray that the Court grant such additional general relief to which Defendants may be entitled.

#### **GENERAL DENIAL**

All factual allegations set forth in the Verified Complaint to which Defendants have not specifically responded above are hereby denied.

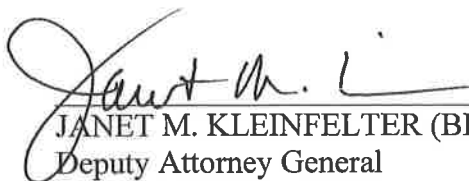
#### **AFFIRMATIVE DEFENSES**

In addition to the foregoing responses to the allegations set forth in the Complaint, the Defendants assert the following affirmative defenses:

1. Plaintiff fails to state a claim as a matter of law because Tenn. Code Ann. § 2-10-117 is constitutional.
2. Defendants reserve their right to amend this Answer as provided by the Tennessee Rules of Civil Procedure in order to assert additional defenses which may become relevant as facts are discovered.

Respectfully submitted,

HERBERT H. SLATTERY III  
Attorney General and Reporter



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**CERTIFICATE OF SERVICE**

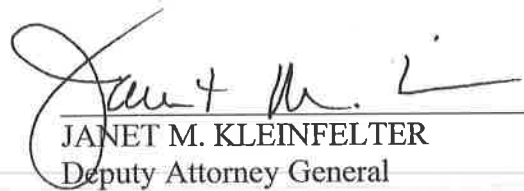
I hereby certify that a copy of the foregoing Answer has been sent by electronic transmission and/or first class U.S. Mail, postage prepaid, to:

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this 4<sup>th</sup> day of Sept., 2018.

  
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JANET M. KLEINFELTER  
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