

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

ALLIANCE FOR DEMOCRACY,	)	
HEDY EPSTEIN, and	)	Civil Action No.
BEN KJELSHUS,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	<b>COMPLAINT</b>
	)	
FEDERAL ELECTION COMMISSION,	)	
	)	
Defendant.	)	
	)	

**Introduction**

This lawsuit asserts that the Federal Election Commission’s (“FEC”) failure to act on an administrative complaint, filed on March 8, 2001 by the above-captioned plaintiffs and two other complainants, is contrary to law. The administrative complaint alleges that Ashcroft 2000, the authorized campaign committee of now-Attorney General John D. Ashcroft in his 2000 campaign for the U.S. Senate, and the Spirit of America PAC, a political action committee (“PAC”) established by Mr. Ashcroft in 1996, committed multiple campaign finance violations of the Federal Election Campaign Act (the “FECA”), 2 U.S.C. §§ 431 *et seq.* during the campaign for the 2000 Missouri Senate election.

**Parties**

1. Plaintiff Alliance for Democracy (the “Alliance”) is a non-profit, non-partisan grassroots organization advocating the full public funding of elections in the United States. The Alliance seeks to expose the large amounts of money spent on political campaigns and to reduce the influence of wealthy individuals and corporations in American government. It has active

chapters in twenty states, including Missouri. The Alliance is bringing this action on behalf of its members who voted in the 2000 Missouri Senate election. Because of the FECA reporting violations at issue in the administrative complaint, members of the Alliance were denied, and continue to be denied, access to critical data regarding the financing of Ashcroft's Senate campaign by Spirit of America PAC, information that would have informed them when they cast their votes on Election Day 2000 and that may inform their votes in future elections.

2. Plaintiff Ben Kjelshus, a member of the Alliance, is a Missouri voter who voted in the 2000 Missouri Senate election. Because of the FECA reporting violations at issue in the administrative complaint, Mr. Kjelshus was denied, and continues to be denied, access to critical data regarding the financing of Ashcroft's campaign by Spirit of America PAC, information that would have informed him when he cast his vote on Election Day 2000 and that may inform his vote in future elections.

3. Plaintiff Hedy Epstein is a Missouri voter who voted in the 2000 Missouri Senate election. Because of the FECA reporting violations at issue in the administrative complaint, Ms. Epstein was denied, and continues to be denied, access to critical data regarding the financing of Ashcroft's campaign by Spirit of America PAC, information that would have informed her when she cast her vote on Election Day 2000 and that may inform her vote in future elections.

4. Defendant Federal Election Commission is a federal agency created under the statutory authority of the FECA, 2 U.S.C. § 437c. The FEC is responsible for ensuring compliance with the FECA, including FECA's requirement that PACs and political campaign committees report contributions (made and received) to the FEC.

### **Jurisdiction and Venue**

5. This action arises under the FECA, 2 U.S.C. §§ 431 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. § 2201. The jurisdiction of this Court is conferred by 2 U.S.C. § 437g and 28 U.S.C. § 1331.

6. Venue is conferred on this Court by 2 U.S.C. § 437g and 28 U.S.C. § 1391.

### **Background**

7. On March 8, 2001, Alliance for Democracy, Hedy Epstein, Ben Kjelshus, and two other complainants filed an administrative complaint with the FEC against Ashcroft 2000 and the Spirit of America PAC.

8. The administrative complaint alleged that the Spirit of America PAC contributed a fundraising list of 100,000 donors to Ashcroft 2000 and that, in turn, Ashcroft 2000 made a significant amount of money by renting the list to other entities.

9. The donation of the fundraising list by Spirit of America PAC to Ashcroft 2000 constituted a “contribution” as defined by federal law. *See* 2 U.S.C. § 431(8) and 11 CFR 100.7.

10. Neither Ashcroft 2000 nor the Spirit of America PAC reported the contribution of the fundraising list to the FEC, as required by federal law.

### **COUNT I**

(The FEC’s Inaction Is Contrary to Law)

11. The plaintiffs filed an administrative complaint against Ashcroft 2000 and Spirit of America PAC with the FEC on March 8, 2001, over one year ago.

12. The FEC has failed to act in a timely manner on the administrative complaint. The administrative complaint was dormant until late May and was not assigned to an attorney in the General Counsel’s Office until July 6, 2001. Thus, it was not until some four months after the

administrative complaint was filed that an FEC attorney even received a copy of the administrative complaint. To this date, the FEC still has not taken final action.

13. On information and belief, the factual allegations contained in the complaint can be corroborated by an examination of public records available at the FEC Records Office and by interviewing the small number of people who were officers for both Ashcroft 2000 and Spirit of America PAC.

14. A sufficient amount of time has elapsed in which the FEC should have thoroughly investigated the allegations and ruled on the merits of the administrative complaint.

15. If the FEC acts and determines that reporting violations occurred, the FEC might compel Ashcroft 2000 and Spirit of America PAC to disclose the date, purpose, and value of the contribution of the fundraising list by Spirit of America PAC to Ashcroft 2000.

16. The plaintiffs have been harmed by the FEC's failure to act on their administrative complaint because they were denied, and continue to be denied, access to critical data that would have assisted them in evaluating the candidates for the 2000 Missouri Senate election and that may assist them in evaluating candidates in future elections.

17. Because the March 8, 2001 administrative complaint was brought against the Attorney General of the United States, the nation's highest law enforcement officer, it is a matter whose resolution is particularly in the public interest and the FEC should rule on the complaint without continued delay.

WHEREFORE, complainants request that this Court (1) declare that the FEC's failure to act on the administrative complaint filed by the plaintiffs on March 8, 2001 is contrary to law;

(2) direct the FEC to rule on the merits of the complaint within thirty days, pursuant to 18 U.S.C. § 437g(a)(8)(C); and (3) take such further action as may be appropriate.

Respectfully submitted,

---

Date

---

Jordan B. Yeager (D.C. Bar No. 437156)  
Boockvar & Yeager  
714 Main Street  
Bethlehem, PA 18018  
(610) 861-4662

*\*pro hac vice* motion pending

---

\*LISA J. DANETZ (D.C. Bar No. 461985)  
\*JOHN C. BONIFAZ  
\*BRENDA WRIGHT  
\*BONNIE TENNERIELLO  
National Voting Rights Institute  
One Bromfield Street  
Boston, Massachusetts 02108  
(617) 368-9100

*Attorneys for Plaintiffs*