

SUFFOLK, ss.

ROBERT HERRMANN, ET AL.

V.

Defendants.

DAVID C. BAXTER, ET AL.

Plaintiffs,

V.

ATTORNEY GENERAL AND SECRETARY OF STATE
OF THE COMMONWEALTH OF MASSACHUSETTS,

Defendants.

For the purposes of this action only, the parties stipulate to the truth, but not necessarily the relevance, of the matters set forth below. Inclusion of a factual statement herein does not necessarily constitute agreement that the fact was officially noticeable by the Attorney General during the certification process, or was actually officially noticed by her, except as specifically indicated.

1. Plaintiffs are all citizens of Massachusetts who signed the Petition (as defined below), registered to vote as follows:

- A. Plaintiff, David C. Baxter, is a registered voter in Acton, Massachusetts
- B. Plaintiff, Mary Blaine Campbell, is a registered voter in Cambridge, Massachusetts.
- C. Plaintiff, Catherine Brun-Cottan, is a registered voter in Belmont, Massachusetts.
- D. Plaintiff, Georges Brun-Cottan, is a registered voter in Belmont, Massachusetts.
- E. Plaintiff, Leigh Chinitz, is a registered voter in Wellesley, Massachusetts.
- F. Plaintiff, Bettina Neuefeind, is a registered voter in Brookline, Massachusetts.
- G. Plaintiff, Leo Sprecher, is a registered voter in Newton, Massachusetts.
- H. Plaintiff, Robert Herrmann, is a registered voter in Groton, Massachusetts.
- I. Plaintiff, Lars Mikkelsen, is a registered voter in Arlington, Massachusetts.
- J. Plaintiff, Joshua Redstone, is a registered voter in Cambridge, Massachusetts.
- K. Plaintiff, Graeme Sephton, is a registered voter in Shutesbury, Massachusetts.

2. On June 28, 2022, proponents submitted to the Attorney General an initiative petition entitled, “Initiative Petition for a Law Relative to Limiting Political Contributions to Independent Expenditure PACs.” She numbered it, Initiative Petition No. 22-01. A true and accurate copy of that petition is attached hereto as Exhibit A (the “Petition”).

3. Proponents did not submit the “remaining required signatures” for the Petition, as that phrase is used in Part II, section 3, of art. 48 of the Massachusetts Constitution, to the Secretary on or before the first Wednesday in December 2022. Proponents have advised the Attorney General that they intend (a) to have the Secretary of State transmit their Petition to the General Court in January 2024, (b) to collect the “remaining required signatures” in fall 2023, and (c) to file those signatures with the Secretary of State on or before the first Wednesday in December 2023.

4. On September 7, 2022, the Attorney General declined to certify the Petition as compliant with art. 48. A true and accurate copy of the Attorney General's letter of declination is attached hereto as Exhibit B.

Respectfully Submitted,

/s/ Lawrence Lessig

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Leigh Chinitz,
Bettina Neuefeind, and Leo Sprecher*

/s/ Courtney Hostetler

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*Attorneys for Plaintiffs Robert Herrmann, Lars Mikkelsen,
Joshua Redstone, and Graeme Sephton*

Respectfully Submitted,

/s/ Anne Sterman

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and Secretary of State of the Commonwealth
of Massachusetts*

EXHIBIT A

Initiative Petition for a Law Relative to Limiting Political Contributions to Independent Expenditure PACs

Be it enacted by the People, and by their authority:

SECTION 1: This act may be referred to and cited as the "End Super PACs Act."

SECTION 2: Subsection (a) of section 7A of chapter 55 of the General Laws is hereby amended by striking out paragraph (3) and inserting in place thereof the following paragraph:


(3) An individual may in addition make campaign contributions to any political committee not specified in paragraph (1), (2), (4) or (5); provided, however, that the aggregate of such campaign contributions to any one such political committee shall not exceed in any one calendar year the sum of five hundred dollars.

SECTION 3: Subsection (a) of section 7A of chapter 55 of the General Laws is hereby further amended by adding the following paragraph:

(5) An individual may in addition make campaign contributions to any independent expenditure PAC as defined in section 18A; provided, however, that the aggregate of campaign contributions to any one such independent expenditure PAC shall not exceed in any one calendar year the sum of five thousand dollars.

SECTION 4: This act shall take effect on January 1, 2024.

Initials

1. 	5. _____	9. _____	13. _____	17. _____
2. _____	6. _____	10. _____	14. _____	18. _____
3. _____	7. _____	11. _____	15. _____	19. _____
4. _____	8. _____	12. _____	16. _____	20. _____

The undersigned qualified voters of the Commonwealth of Massachusetts have personally reviewed the final text of this initiative petition, fully subscribe to its contents, agree to be one of its original signers and have signaled that agreement by initialing the page with the petition, and hereby submit the measure for approval by the people pursuant to Article 48 of the articles of amendment of the Constitution of the Commonwealth of Massachusetts, as amended by Article 74 of said articles of amendment.


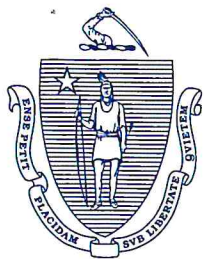
#	Signature	Printed Name	Address at which signatory is registered to vote
1.		Lester Lawrence Lissig	20 Amory St, Brookline
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			

EXHIBIT B



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

TEL: (617) 727-2200
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September 7, 2022

Thomas O. Bean
Verrill Dana LLP
One Federal Street, 20th Floor
Boston, MA 02110

Re: Initiative Petition No. 22-01: Initiative Petition for a Law Relative to Limiting
Political Contributions to Independent Expenditure PACs

Dear Mr. Bean:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, we have reviewed the above-referenced initiative petition, which was submitted to the Attorney General on or before the first Wednesday of August this year. I regret that we are unable to certify that the proposed law complies with Article 48. Our decision, as with all decisions on certification of initiative petitions, is based solely on Article 48's legal standards and does not reflect the Attorney General's policy views on the merits of the proposed laws.

Below, we describe the proposed law and then explain why we are unable to certify that the petition is consistent with the right to free speech embodied in Article 16 of the Declaration of Rights.

Description of Petition

This proposed law would impose a \$5,000 per-calendar-year limit on campaign contributions made by an individual to a political committee or entity that makes independent expenditures to advocate for or against particular candidates without cooperation or consultation with those candidates. This proposed law would go into effect on January 1, 2024.

The Petition is Inconsistent with the Rights of Free Speech

Article 48, the Initiative, Part 2, Section 2 provides, in pertinent part, that "No proposition inconsistent with any one of the following rights of the individual, as at present declared in the declaration of rights, shall be the subject of an initiative or referendum petition," including the freedom of speech. As explained below, the proposed law is inconsistent with these rights



protected by the state constitution because it would impinge on the freedom of speech. *Associated Indus. of Massachusetts v. Att'y General*, 418 Mass. 279, 283-84, (1994) (noting that Article 48 looks at inconsistency with rights under state constitution, not the federal constitution).

Article 16 of the Massachusetts Declaration of Rights provides, in relevant part, that the "right of free speech shall not be abridged." Courts in Massachusetts interpret Article 16's protections as being coextensive with, or broader than, the First Amendment to the United States Constitution. Courts across the country have uniformly held that limits on contributions to independent expenditure PACs – like those at issue in this proposed law – violate free speech protections. See, e.g., *SpeechNow.org v. FEC*, 599 F.3d 686, 695 (D.C. Cir. 2010); *New York Progress & Protection PAC v. Walsh*, 733 F.3d 483, 488 (2d Cir. 2013); *Wisconsin Right to Life State Pol. Action Comm. v. Barland*, 664 F.3d 139, 154 (7th Cir. 2011).

Although Massachusetts courts have not specifically weighed in on the constitutionality of laws limiting campaign contributions made by an individual to a political committee or entity that makes independent expenditures to advocate for or against particular candidates without cooperation or consultation with those candidates, where the Supreme Judicial Court has recognized that courts in the Commonwealth interpreted the protections of free speech under the Declaration of Rights to be "comparable to those guaranteed by the First Amendment," *Opinion of the Justices*, 418 Mass. 1201, 1212 (1994), it is clear that this proposed law would violate the free speech rights afforded by the state constitution.

For this reason, the Attorney General's Office is unable to certify that Petition No. 22-01 complies with Article 48.

Very truly yours,



Anne Sterman
Deputy Chief, Government Bureau
617-963-2524

cc: William Francis Galvin, Secretary of the Commonwealth