

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CLAIRE BALL;)
SCOTT SCHLUTER,)

Plaintiffs,)

v.)

LISA M. MADIGAN, Attorney General)
of Illinois;)

CHARLES W. SCHOLZ, Chairman,)
Illinois Board of Elections;)

ERNEST L. GOWEN, Vice Chairman,)
Illinois Board of Elections;)

BETTY J. COFFRIN, Member, Illinois)
Board of Elections;)

CASANDRA B. WATSON, Member,)
Illinois Board of Elections;)

WILLIAM J. CADIGAN, Member,)
Illinois Board of Elections;)

ANDREW K. CARRUTHERS, Member,)
Illinois Board of Elections;)

WILLIAM M. MCGUFFAGE, Member,)
Illinois Board of Elections;)

JOHN R. KEITH, Member, Illinois)
Board of Elections, all in their official)

capacities,)

Defendants.)

Civil Case No. 15-cv-10441

Hon. John Z. Lee

PLAINTIFFS' STATEMENT OF MATERIAL FACTS

A. The Parties, Venue, and this Court's Jurisdiction

1. Plaintiff Claire Ball is a resident of Addison, Illinois, and is running as the Libertarian Party candidate for Illinois Comptroller. Verified Amended Compl. at ¶10. Plaintiff Scott Schluter is a resident of Marion, Illinois, and is running as a Libertarian Party candidate for Illinois State Representative for the 117th District. *Id.* at ¶11. Both candidates would like to approach medical marijuana cannabis cultivators and dispensaries about supporting their respective campaigns with campaign contributions, and both would like to accept contributions from such organizations. *Id.* at ¶¶10-11.
2. Defendant Lisa Madigan is the Attorney General of the State of Illinois and maintains an office in Cook County, Illinois. *Id.* at ¶12. The Attorney General possesses the authority to prosecute violations of 10 ILCS 5/9-45 pursuant to 10 ILCS 5/9-25.2. Defendant Charles Scholz is the Chairman and a member of the Illinois State Board of Elections (the "Board"), which maintains an office in Cook County. *Id.* at ¶13.
3. Defendants Ernest Gowen, Betty Coffrin, Casandra Watson, William Cadigan, Andrew Carruthers, William McGuffage, and John Keith serve on the Board. *Id.* at ¶¶14-20.
4. The Board may hold preliminary hearings to determine if complaints alleging violations of election law have "justifiable grounds" under 10 ILCS 5/9-21. It may impose fines, report violations to the Attorney General, and seek injunctions and enforce civil penalties in Illinois state circuit courts. 10 ILCS 5/9-21, 23, 24.
5. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because this action arises under the First and Fourteenth Amendments to the Constitution of the United States.
6. Venue in the Northern District of Illinois is proper because the Defendants reside here and all of the events or omissions giving rise to the claims occur in this district.

B. 10 ILCS 5/9-45 Bans Medical Marijuana Groups From Making Campaign Contributions and Bans Plaintiffs From Accepting Them

7. 10 ILCS 5/9-45 provides that it is “unlawful for any medical cannabis cultivation center or medical cannabis dispensary organization or any political action committee created by any medical cannabis cultivation center or dispensary organization to make a campaign contribution.” Likewise, it is “unlawful for any candidate, political committee, or other person to knowingly accept or receive any contribution prohibited.” *Id.*
8. Plaintiffs are third-party political candidates, Verified Amended Compl. at ¶¶10-11, who desire to solicit and accept campaign contributions from medical marijuana organizations but cannot due to the effect of the law. *Id.* at ¶¶25-28. They contend this conduct is protected under the First Amendment to the United States Constitution. *Id.* at ¶32.
9. Illinois may punish Plaintiffs with fines of up to \$5,000 or \$10,000, depending on the office the candidate is seeking, for accepting prohibited campaign contributions. *Id.* at ¶29; *see also* 10 ILCS 5/9-23.
10. Because of the threat of fines, Plaintiffs have refrained from soliciting or accepting any campaign contributions from medical marijuana groups. Verified Amended Compl. at ¶30.
11. Plaintiffs wish to solicit and accept campaign contributions before the general election slated for November 2016 and require the relief of this court to do so. *Id.* at ¶¶27,30.
12. At the time Plaintiffs filed their complaint, Ms. Ball had received \$1,450.00 in campaign contributions, and Mr. Schluter had received \$172.22. *Id.* at 26.

C. Defendants Have Produced No Evidence That the Contribution Ban Serves an Anticorruption Interest

13. Defendants have cited no legislative record or other facts showing that ban on contributions by medical cannabis organizations in 10 ILCS 5/9-45 serves a government interest in preventing

actual or apparent quid pro quo corruption. *See generally* Defendants' Answer to Plaintiffs' Verified Complaint (Dkt. 19); Exhibit A, Defendants' Responses to Plaintiffs' First Set of Interrogatories ("Defs.' Int. Responses").

14. In response to Plaintiffs' Interrogatory No. 3, which requested "all facts that you believe support your conclusion that the medical cannabis ban [of 10 ILCS 5/9-45] serves the governmental interest [in protecting against quid pro quo corruption]," Defendants stated that "10 ILCS 5/9-45 protects against quid pro quo corruption and its appearance by making it 'unlawful for any medical cannabis cultivation center or medical cannabis dispensary organization or any political action committee created by any medical cannabis cultivation center or dispensary organization to make a campaign contribution to any political committee established to promote the candidacy of a candidate or public official.'" Exh. A, Defs.' Int. Responses at 3.

15. In response to Plaintiffs' Interrogatory No. 5, which requested "any and all facts showing that medical cannabis cultivation centers or medical cannabis dispensary organizations give rise to a threat of actual or apparent corruption that is greater than the threat of corruption posed by any other type of business licensed by the State," Defendants cited the following reasons, with no additional supporting facts: "the medical cannabis pilot program is new and untested"; "the program has registration requirements and is subject to oversight and enforcement by multiple state agencies"; "there are strict limitations on the number of cultivation centers (only 22) and dispensing organizations (only 60) that may be registered for operation"; "the program is currently scheduled to be repealed on January 1, 2018." Defendants also stated that it is "singularly important to prevent corruption or the appearance of corruption in the medical cannabis pilot program because individuals' health and safety is at stake" and because "[t]he

Illinois General Assembly has determined that the use of cannabis may cause physical, psychological, and sociological damages (720 ILCS 550/1), and cannabis remains illegal under federal law.” Exh. A., Defs.’ Int. Responses at 4.

16. In response to Plaintiffs’ Interrogatory No. 4, seeking “any and all facts showing that medical cannabis cultivation centers or medical cannabis dispensary organizations give rise to a threat of actual or apparent corruption,” Defendants only cited their responses to Plaintiffs’ Interrogatories Nos. 3 and 5, which are quoted in the preceding two paragraphs. Exh. A, Defs.’ Int. Responses at 3.

Dated: June 1, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Benjamin Barr, certify that the foregoing Statement of Material Facts was served upon Defendants on June 1, 2016, using the Court’s CM/ECF system.

/s/ Benjamin Barr