

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SAM PARTY OF NEW YORK, et al.,

Plaintiffs,

v.

ANDREW CUOMO, et al.,

Defendant.

Case No.: 20-cv-323

**ANSWER**

Defendants William Barclay, as the Minority Leader of the New York State Assembly, and John Flanagan, as the Minority Leader of the New York State Senate (collectively, “Defendants”), by and through their attorneys, hereby answer the Complaint in this action (the “Complaint”) as follows:

**INTRODUCTION**

1. Defendants deny the characterization that New York has changed its electoral “laws”. Defendants admit that Recommendations issued by the Campaign Finance Reform Commission purport to require a political organization to receive a threshold number of votes for its presidential candidate in order to qualify as a political party pursuant to the Election Law. To the extent paragraph 1 states legal conclusions, no response is required.

2. Defendants admit that SAM Party of New York is a recognized political party under New York law. Defendants deny knowledge and information sufficient to respond to the remaining allegations in paragraph 2.

3. Defendants deny the characterization that there has been a change to the ballot-access “laws”. Defendants deny knowledge and information sufficient to respond to the remaining allegations in paragraph 3.

**THE PARTIES**

4. Defendants admit the allegations in paragraph 4.

5. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 5.

6. Defendants admit the allegations in paragraph 6.

7. Defendants admit the allegations in paragraph 7.

8. Defendants admit the allegations in paragraph 8.

9. Defendants admit the allegations in paragraph 9.

10. Defendants admit that Brian Kolb was the Minority Leader of the New York State Assembly until his resignation. Defendants further state that William Barclay has succeeded Kolb as the Minority Leader of the New York State Assembly.

11. Defendants admit the allegations in paragraph 11.

12. Defendants admit the allegations in paragraph 12.

13. Defendants admit the allegations in paragraph 13.

14. Defendants admit the allegations in paragraph 14.

15. Defendants admit the allegations in paragraph 15.

16. Defendants admit the allegations in paragraph 16.

**JURISDICTION AND VENUE**

17. Defendants admit the allegations in paragraph 17.

18. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 18.

19. Defendants admit the allegations in paragraph 19.

20. Defendants admit the allegations in paragraph 20.

### **STATEMENT OF FACTS**

21. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 21.

22. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 22.

23. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 23.

24. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 24.

25. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 25.

26. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 26.

27. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 27.

28. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 28.

29. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 29.

30. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 30.

31. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 31.

32. Defendants admit the allegations in paragraph 32.

33. Defendants admit the allegations in paragraph 33.

34. Defendants admit the allegations in paragraph 34.

35. Defendants admit that the SAM Party of New York received 55,441 votes on its ballot line for the 2018 gubernatorial election and became a recognized political party under New York law. Defendants deny knowledge and information sufficient to respond to the remaining allegations in paragraph 35.

36. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 36.

37. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 37.

38. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 38.

39. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 39.

40. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 40.

41. Defendants admit that the Campaign Finance Review Commission was created as part of a budget bill enacted in 2019. Defendants deny knowledge and information sufficient to respond to the remaining allegations in paragraph 41.

42. Defendants admit the allegations in paragraph 42.

43. Defendants admit the allegations in paragraph 43.

44. Defendants admit the allegations in paragraph 44.

45. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 45.

46. Defendants admit the allegations in paragraph 46.

47. Defendants admit the allegations in paragraph 47.

48. Defendants admit the allegations in paragraph 48.

49. Defendants admit the allegations in paragraph 49.

50. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 50.

51. Defendants admit that the Commission's Report that expressly states that each recommendation is intended to be non-severable from any other recommendation. Defendants deny knowledge and information sufficient to respond to the remaining allegations in paragraph 51.

52. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 52.

53. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 53.

54. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 54.

55. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 55.

56. Defendants admit that the Legislature did not meet to debate the Recommendations. Defendants deny the characterization of the recommendations as having become “law”.

57. Defendants admit the allegations in paragraph 57.

58. Defendants admit the allegations in paragraph 58.

59. Defendants deny the characterization of the Commission enacting a ballot-access “law”. To the extent paragraph 59 states legal conclusions, no response is required. Defendants deny knowledge and information sufficient to respond to the remaining allegations in paragraph 59.

60. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 60.

61. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 61.

62. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 62.

63. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 63.

64. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 64.

65. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 65.

66. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 66.

**COUNT I**

67. No response is required to paragraph 67.

68. Paragraph 68 states legal conclusions therefore no response is required.

69. Paragraph 69 states legal conclusions therefore no response is required.

70. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 70. To the extent paragraph 70 states legal conclusions no response is required.

71. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 71.

72. Defendants admit that the public-finance provisions do not apply to candidates for federal office. Defendants deny knowledge and information sufficient to respond to the remaining allegations in paragraph 72.

73. Defendants admit that the public-finance provisions do not apply in the 2020 or 2022 election cycles. Defendants deny knowledge and information sufficient to respond to the remaining allegations in paragraph 73.

74. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 74.

75. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 75.

76. Paragraph 76 states legal conclusions therefore no response is required.

77. Defendants admit that the Commission's Recommendations would increase the party qualification vote threshold to 130,000 or 2% of the gubernatorial vote in the 2022 election. Defendants deny knowledge and information sufficient to respond to the remaining allegations in paragraph 77.

78. Paragraph 78 states legal conclusions therefore no response is required. Defendants nevertheless deny the characterization of the Commission's Recommendations as enacted into "law".

79. Paragraph 79 states legal conclusions therefore no response is required.

## **COUNT II**

80. No response is required to paragraph 80.

81. Paragraph 81 states legal conclusions therefore no response is required.

82. Defendants deny knowledge and information sufficient to respond to the allegations in paragraph 82. To the extent paragraph 82 states legal conclusions no response is required.

83. Paragraph 83 states legal conclusions therefore no response is required.

84. Paragraph 84 states legal conclusions therefore no response is required.

85. Paragraph 85 states legal conclusions therefore no response is required.

86. Defendants deny the characterization of the Commission's Recommendations as the "law". Defendants deny knowledge and information sufficient to respond to the remaining allegations in paragraph 86. To the extent paragraph 86 states legal conclusions no response is required.

87. Paragraph 87 states legal conclusions therefore no response is required.

## **COUNT III**

88. No response is required to paragraph 88.



89. Paragraph 89 states legal conclusions therefore no response is required.

90. Paragraph 90 states legal conclusions therefore no response is required. Defendants nevertheless deny the characterization of the Commission's Recommendations as the "law".

91. Paragraph 91 states legal conclusions therefore no response is required.

92. Paragraph 92 states legal conclusions therefore no response is required.

#### **COUNT IV**

93. No response is required to paragraph 93.

94. Defendants admit that the SAM Party of New York met the vote thresholds to qualify as a political party in 2018. Defendants deny knowledge and information sufficient to respond to the remaining allegations in paragraph 94.

95. Paragraph 95 states legal conclusions therefore no response is required. Defendants nevertheless deny the characterization of the Commission's Recommendations as the "law".

96. Paragraph 96 states legal conclusions therefore no response is required.

#### **GENERAL DENIAL AND RESERVATION OF RIGHTS**

Defendant denies each and every allegation in the Complaint, including but not limited to any allegations that may be stated or implied in any headings of that pleading, that is not specifically admitted herein, and demands strict proof thereof. Defendant reserves the right to amend or supplement this Answer.

#### **DEFENSES AND AFFIRMATIVE DEFENSES**

Without admitting that it carries the burden of proof of any of the matters set forth below, Defendant asserts the defenses listed below. Defendant's assertion of defenses in this Answer does not constitute a waiver of any applicable affirmative or other defenses. At this time, Defendant has insufficient knowledge or information upon which to form a belief as to whether there may be

additional affirmative defenses available to it, and Defendant reserves the right to raise additional affirmative defenses as they become known to it.

**FIRST DEFENSE**  
**(Failure to State a Claim)**

The Complaint fails to state a claim on which relief can be granted against Defendants.

Dated: March 12, 2020  
Albany, New York

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