

**IN UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

FREEDOM WATCH, INC.
2775 NW 49th Ave, Suite 205-345
Ocala, Fl 34483,

Plaintiff,

v.

THE HONORABLE BARACK OBAMA
President of the United States of America
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20006
as De Facto Chairman of the
Defendant Advisory Committee,

THE HONORABLE JOSEPH R. BIDEN
Vice President of the United States and Chairman of
the OBAMA GUN CONTROL TASK FORCE,
Old Executive Office Building
Washington, DC 20501,

OBAMA GUN CONTROL TASK FORCE
c/o Eisenhower Executive Office Building
Washington, D.C. 20501,

JOHN AND JANE DOE NOS. 1-99,
Certain Unknown Non-Federal Employees,
and/or Members of the Obama Gun Control Task
Force,

Defendants.

Civil Action No. 5:13-CV-26-OC-22PRC

AMENDED COMPLAINT

Plaintiff, Freedom Watch, Inc., hereby files this complaint for compliance with the Federal Advisory Committee Act, 5 U.S.C. App. 2 (“FACA”). As grounds therefore, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1346(a)(2) (United States as defendant), and 5 U.S.C. § 552(a)(4)(B) (FOIA).
2. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

PARTIES

3. Plaintiff conducts business and has a presence in Ocala, Florida. Plaintiff requested certain documents pursuant to the FACA and FOIA and intends to disseminate the requested information and documents to its supporters and benefactors, government officials, appropriate news media, and to the American public at large.
4. Defendant Obama Gun Control Task Force (“OGCTF”) is an agency and entity of the United States Government. Defendant OGCTF was created by President Barack H. Obama and is headed by Vice President Joseph R. Biden to develop proposals for gun control legislation.
5. Defendant Barack H. Obama (“Obama”) is the President of the United States. Defendant Obama formed the Obama Gun Control Task Force.
6. Defendant Joseph R. Biden is the Vice President of the United States and has been appointed the chairman of the Gun Control Task Force by President Obama.
7. John and Jane Does Nos. 1-99 are currently unknown, non-federal employees who are members of the OGCTF.

STATEMENT OF FACTS

8. After the tragic Sandy Hook Elementary School shooting of December 14, 2012 President Obama established and directed the OGCTF on December 19, 2012, with the goal of gathering information and advising the president on matters related to possible gun control legislation and the use of executive orders to limit and infringe gun ownership rights under the Second Amendment of the U.S. Constitution.
9. By designating this newly formed task force, which is a presidential advisory committee, de jure and/or de facto, Defendant Obama has made the meetings subject to the provisions of FACA.
10. Pursuant to FACA, an advisory committee must publish within the Federal Registry notice of any meeting fifteen days prior to that meeting, and the meetings must be made open to members of the public who seek access pursuant to FACA, as Plaintiff did herein.
11. The first meeting of the OGCTF was held on December 20, 2012 a single day after its creation, without the required notice requirements having been met being posted in the Federal Registry.
12. It has been widely reported and disclosed by the national media that non-federal employees, including lobbyists from the video game industry, Walmart, and other private lobbyists (John and Jane Does 1-99), fully participated in non-public meetings of the OGCTF as if they were members of the OGCTF, and, in fact, were members of the OGCTF.
13. On January 7, 2013, Plaintiff served a letter to President Obama, pursuant to the provisions the FACA, 5 U.S.C. §§ 552 and App.2, requesting copies of all minutes and

final decision documents of OGCTF meetings from the inception of OGCTF to the present. See January 7, 2013 Letter to The Hon. Barack Obama, attached as Exhibit 1 and incorporated herein by reference. Plaintiff also sought to attend all future meetings of the OGCTF pursuant to the FACA, and asked to be provided with future meeting schedules and contact information so that representatives of Plaintiff could attend these meetings.

14. Plaintiff also requested all minutes and documents from the OGCTF.

15. The OGCTF has failed to produce any and all documents that are required under FACA.

COUNT I

(Violation of the Federal Advisory Committee Act)

16. Plaintiff incorporates by paragraphs 1-16 as if fully set forth herein.

17. The OGCTF is a federal advisory committee as defined under the FACA, 5 U.S.C.

App.2, and as such is required to comply with all provisions of that law, including, but not limited to, filing a charter, allowing interested persons--such as Plaintiff--to attend and have input at meetings of the OGCTF, producing documents and other things and having open meetings in accordance with the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, et. seq, publishing notice of all future meetings in the Federal Register, and having a board that is fairly balanced in terms of the points of view represented.

18. Plaintiff has made a request to the OGCTF that representatives of Plaintiff be allowed to attend and participate in meetings of the OGCTF, that they be given copies of certain OGCTF documents, and the OGCTF appoint at least one person with a different point of view, among other matters. See Exhibit 1.

19. Defendant OGCTF has thus far failed and refused to accede to Plaintiff's request by providing the requisite 15 days notice and allowing Plaintiff access to and participation at the meetings.
20. The failure of Defendants to comply with the FACA has harmed Plaintiff in that Plaintiff has as one of its primary functions the monitoring and safeguarding of the public trust and interest. The activities of the Defendants in this case have thus far deprived Plaintiff of its right, granted by the FACA, to participate in meetings held by the OGCTF, to have advance notice of those meetings, and to have a voice in the affairs of the OGCTF on behalf of the American people. The acts of Defendants have thus frustrated Plaintiff's ability to effectively carry out its purpose of promoting and protecting justice and social welfare, including, among other things, preventing abuse and violation of the public trust and interest by federal officers, officials, employees, agents, and/or persons acting in concert with them.
21. As an interested party and a representative of the public, Plaintiff has been and continues to be damaged by the operations of the OGCTF. Public confidence in the integrity of the Presidency and the Executive Branch as a whole has been and will be harmed by the appearance that the President and the Obama Administration as a whole are under the influence of, or are promising favors to, a select few special interests but not the American people as a whole. Members of Defendant OGCTF also gain influence or favor with the executive branch to the detriment of others who do not participate in the OGCTF.

22. Plaintiff and the American people which it represents will continue to suffer permanent and irreparable injury unless operation of the OGCTF is brought into compliance with the provisions of the FACA.

COUNT II

(Violation of the Freedom of Information Act Provisions Incorporated Into FACA)

23. Plaintiff incorporates by paragraphs 1-22 as if fully set forth herein.

24. On January 7, 2013 Plaintiff delivered to Defendants a letter which requested all minutes and other documents and records produced out of the OGCTF.

25. Defendants have failed and refused to comply with Plaintiff's request.

26. Pursuant to 5 U.S.C. § 552(a)(6)(C) and 5 U.S.C. § 552(a)(6)(E)(ii)(I), Plaintiff shall be deemed to have exhausted its administrative remedies with respect to its request to Defendant.

27. Pursuant to 5 U.S.C. § 552(a)(3), Plaintiff has a right of access to the information and documents and records requested in its FOIA request, and Defendants have no legal basis for refusing to disclose this information and these documents and records to Plaintiff.

WHEREFORE, Plaintiff prays:

- I. that Defendant OGCTF be found in violation of the FACA and that Defendants be enjoined, pursuant to Rule 65 of the Federal Rules of Civil Procedure, from holding meetings while it continues to be in violation of the FACA;
- II. that, pursuant to 28 U.S.C. §1361 and other applicable laws, a writ of mandamus issue compelling Defendant OGCTF to comply with the FACA;

- III. that the court issue an order enjoining the Obama Gun Control Task Force from conducting any more meetings;
- IV. that the court issue an order that this Task Force be shut down immediately as it is illegally in violation of FACA laws;
- V. that this court enjoin the issuance and implementation of the recommendations of the Gun Control Task Force, and the executive orders and other executive actions that were issued and put into effect thereafter as a result of these recommendations which were issued on or about January 16, 2013;
- VI. that this court issue an order demanding that any and all requested documents and records from the OGCTF be produced immediately to Plaintiff and thus the American people;
- VII. that Plaintiff be awarded the attorneys fees and costs of bringing this suit;
- VIII. any and all other relief the Court deems just or proper.

Respectfully submitted,

FREEDOM WATCH, INC.

/s/ Larry Klayman
Larry Klayman, Esq.
Florida Bar No. 246220
2775 NW 49th Ave, Suite 205-345
Ocala, FL 34483
(310) - 595-0800
leklayman@gmail.com
Attorney for Plaintiff

Exhibit 1



January 7, 2013

Via U.S. Mail and Federal Express

Barack Hussein Obama
President (Designate)
United States of America
1600 Pennsylvania Ave, NW
Washington, D.C. 20001

Re: The Federal Advisory Committee Act & The Gun Control Task Force Advisory Committee

Dear Mr. Obama:

On December 19, 2012 you announced the creation of the new Gun Control Task Force, to be headed by Vice President Joe Biden. On December 20, 2012, Vice President Biden met with members of the law enforcement community and other private and/or non-governmental interests for the first meeting of this task force. By designating this newly formed task force, which is a presidential advisory committee, de jure and/or de facto, you have made the meetings subject to the Federal Advisory Committee Act ("FACA"), (Pub.L. 92-463, 6 October 1972), which applies to "any committee, board, commission, council, conference, panel, task force, or other similar group" that dispenses "advice or recommendations" to the President of the United States, and excludes bodies that also exercise operational functions.

This meeting, dealing with the national issue of so-called gun control, is a matter of extreme public importance to all those within the country. So-called gun control is a heavily debated topic and voices from all sides of the issues must be present. The Second Amendment to the U.S. Constitution, which gives to We The People the absolute right to bear arms, is directly at issue and implicated.

Pursuant to FACA, a task force must publish within the Federal Registry notice of any meeting fifteen days prior to that meeting, and the meetings must be made open to the public. The first meeting of this task force was held a single day after its creation, without the required notice requirements having been met.

In accordance with FACA, Freedom Watch and I demand access to all subsequent task force meetings, as well as copies of all minutes and records, in paper, electronic, or any other format (including but not limited to emails), from the first and/or any subsequent meetings to date within twenty days of this letter. If such a request is not met, Freedom Watch will be forced to file suit to enforce FACA's provisions. I trust that the appropriate actions will be undertaken

on behalf of your administration in order to ensure that this matter is resolved expeditiously.
Please inform us immediately of any and all future meetings as I intend to be present.

Thank you for your anticipated cooperation.

Sincerely,

A handwritten signature in black ink, appearing to be 'L. Klayman', with a long horizontal flourish extending to the right.

Larry Klayman
Chairman, Freedom Watch

2020 Pennsylvania Ave, NW, Suite 345
Washington, D.C. 20006-1811

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of January, 2013 a true and correct copy of the foregoing Amended Complaint (Civil Action Number 5:13-CV-26-OC-22PRC) was submitted electronically to the U.S. District Court for the Middle District of Florida and served upon the following:

Via U.S. Mail:

THE HONORABLE BARACK OBAMA
President of the United States of America
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20006

THE HONORABLE JOSEPH R. BIDEN
Vice President of the United States and Chairman of the OBAMA GUN CONTROL TASK
FORCE,
Old Executive Office Building
Washington, DC 20501,

OBAMA GUN CONTROL TASK FORCE
c/o Eisenhower Executive Office Building
Washington, D.C. 20501,

Respectfully Submitted,

/s/ Larry Klayman

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