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The United States Constitution

Article II, Section 1 of the U.S. Constitution imposes only three eligibility requirements on persons serving as president, based on the officeholder's age, time of residency in the U.S., and citizenship status:

U.S. Constitution – Presidential Candidate Eligibility

"No person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States."

CONSTITUTIONAL LEGAL DEFENSE BRIEF

Executive Order on Defending American Electoral Sovereignty from Foreign-Aligned Influence Operations

Prepared by the Office of the Counsel to the President

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PRELIMINARY STATEMENT

This brief presents the constitutional and statutory basis for the Executive Order on Defending American Electoral Sovereignty from Foreign-Aligned Influence Operations (hereinafter "the Order"). It anticipates the legal challenges that will be brought against the Order — primarily by organizations subject to its enforcement — and demonstrates that those challenges fail on every ground. The Order is constitutionally sound, statutorily authorized, and supported by decades of Supreme Court precedent. It will survive judicial review.

The legal challenge that opponents will bring is predictable: they will invoke the First Amendment, claim the Order constitutes viewpoint discrimination, and argue that Citizens United v. FEC (2010) protects their electoral spending as political speech. This brief demonstrates that each of those arguments is wrong, has already been rejected by the Supreme Court, and cannot withstand the controlling precedent that squarely governs this case.

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I. OVERVIEW OF THE ORDER'S LEGAL ARCHITECTURE

The Order rests on four independent and mutually reinforcing pillars of legal authority:

Pillar One: The First Amendment does not protect foreign principals or foreign-aligned organizations from regulation of their participation in American elections. This is not a contested proposition. It is settled law, affirmed by the Supreme Court of the United States.

Pillar Two: The Order operates squarely within Youngstown Zone 1 — the zone of maximum presidential authority — because Congress has expressly authorized the executive actions the Order takes. The International Emergency Economic Powers Act, the Foreign Agents Registration Act, the National Emergencies Act, and Executive Order 13848 collectively grant the President explicit statutory authority for every action the Order directs.

Pillar Three: The national security interest in protecting American elections from foreign-aligned financial capture is compelling, specific, and documented. Where national security interests are established, the Supreme Court has consistently permitted regulation that would otherwise face more stringent scrutiny.

Pillar Four: The Order's FARA enforcement direction is purely an exercise of the President's Article II Take Care Clause authority. Directing the Department of Justice to enforce existing law requires no additional statutory authorization and presents no constitutional question.

No single pillar needs to carry the full weight of this Order. Each independently supports it. Together, they are legally unassailable.

II. THE FIRST AMENDMENT DOES NOT PROTECT FOREIGN-ALIGNED ELECTORAL INTERFERENCE

A. The Controlling Precedent: Bluman v. FEC (2012)

The most important case in this analysis is one that received remarkably little attention: *Bluman v. Federal Election Commission*, 800 F. Supp. 2d 281 (D.D.C. 2011), summarily affirmed, 565 U.S. 1104 (2012).

In *Bluman*, the Supreme Court — without dissent and without oral argument — affirmed the constitutionality of a federal law that completely banned foreign nationals from making any electoral contributions or expenditures in American elections. The D.C. District Court's opinion, written by then-Judge Brett Kavanaugh, held that this prohibition survived strict scrutiny because:

"[T]he statute serves the compelling interest of limiting the participation of non-Americans in the activities of democratic self-government... any statute that excludes foreign nationals from political spending is therefore tailored to achieve that compelling interest."

The Supreme Court's summary affirmance — its most emphatic form of agreement, issued without a single recorded dissent — settled the question definitively: **foreign nationals have no First Amendment right to spend money to influence American elections.**

This is the constitutional wall on which the Order stands. It is not a contested wall. It is the law of the United States, affirmed by every sitting Justice of the Supreme Court without exception.

B. Citizens United Does Not Help the Opposition

Opponents will invoke *Citizens United v. FEC*, 558 U.S. 310 (2010), arguing that corporations have a First Amendment right to make unlimited independent electoral expenditures. This argument fails for three reasons.

First, *Citizens United* expressly declined to address the constitutionality of restrictions on foreign nationals' electoral spending. The majority opinion by Justice Kennedy explicitly stated: "We need not reach the question whether the Government has a compelling interest in preventing foreign nationals... from influencing our Nation's political process." 558 U.S. at 362. The Court

deliberately left that question open — and *Bluman*, decided two years later, answered it against foreign nationals.

Second, *Citizens United* held that *domestic* corporations and associations have First Amendment rights to make electoral expenditures. Foreign-aligned organizations acting in the interests of foreign governments are categorically different. The First Amendment protects "the people" — a term the Court has interpreted in the political context to mean the American political community, not the citizens of foreign nations.

Third, even under *Citizens United*'s framework, the government may impose disclosure requirements and may prohibit contributions (as distinct from independent expenditures) without violating the First Amendment. The Order's disclosure and registration requirements are independently constitutional under *Citizens United*'s own reasoning.

C. The Distinction Between Domestic and Foreign Speech Is Constitutionally Fundamental

The constitutional distinction between the speech rights of American citizens and the speech rights of foreign principals in the American political process runs deeper than *Bluman*. It is rooted in the foundational principle that democratic self-governance is a right that belongs to the governed — the people of the United States — and not to the governments or agents of foreign nations.

As the *Bluman* district court recognized, foreign nationals "are not a part of the American political community" and have no constitutional entitlement to participate in "the activities of democratic self-government." This principle does not depend on the foreign national's country of origin, the popularity of that country's government, or any diplomatic relationship between the United States and that country. It is structural: American democracy is self-governance by Americans.

Foreign governments and foreign principals who fund electoral spending through domestic intermediaries — whether registered lobbyists, PACs, super PACs, or nonprofit organizations — cannot launder their way into constitutional protection by routing their money through American entities. An American shell PAC funded by a foreign-aligned organization is no more constitutionally protected than a direct foreign contribution. The source of the funds, not the identity of the conduit, determines the constitutional analysis.

D. Meese v. Keene (1987) — FARA Disclosure Is Constitutional

In *Meese v. Keene*, 481 U.S. 465 (1987), the Supreme Court upheld FARA's requirement that films produced by a foreign government be labeled as "political propaganda." The Court held that this disclosure requirement did not violate the First Amendment because it accurately described the nature of the material and served the compelling governmental interest in ensuring that Americans know when they are being exposed to foreign-government messaging.

The Court's reasoning in *Meese* directly supports the Order's FARA enforcement direction. If mandatory disclosure of foreign-government-produced films is constitutional, mandatory registration of organizations spending hundreds of millions of dollars on behalf of foreign governments in American elections is unquestionably constitutional.

III. THE ORDER FALLS IN YOUNGSTOWN ZONE 1 — PRESIDENTIAL AUTHORITY AT ITS MAXIMUM

A. The Youngstown Framework

In *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), Justice Robert Jackson's concurrence established the controlling framework for analyzing the constitutionality of presidential executive orders. Jackson identified three zones of presidential power:

Zone 1: When the President acts pursuant to express or implied congressional authorization, presidential authority "is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate." Presidential action in Zone 1 will almost certainly be upheld.

Zone 2: When Congress has neither authorized nor prohibited the action, the President acts in a "zone of twilight" where authority is uncertain. Courts analyze context and precedent.

Zone 3: When the President acts contrary to the expressed or implied will of Congress, presidential power "is at its lowest ebb." The action must rest on exclusive presidential constitutional authority.

The Order operates squarely in Zone 1. Congressional authorization for every action the Order directs is express, specific, and unambiguous. This is not a close case.

B. Congressional Authorization: IEEPA

The International Emergency Economic Powers Act, 50 U.S.C. § 1701 et seq., grants the President broad authority, upon declaring a national emergency, to:

"regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States."

50 U.S.C. § 1702(a)(1)(B). This authority is extraordinarily broad. It covers financial transactions. It covers the transfer of funds. It covers the exercise of rights with respect to property. All of these are directly implicated by foreign-aligned electoral spending. The IEEPA authorization for the Order's sanctions provisions is explicit, broad, and well within established IEEPA case law.

In *Dames & Moore v. Regan*, 453 U.S. 654 (1981), the Supreme Court upheld a sweeping presidential exercise of IEEPA authority — the blocking and transfer of Iranian assets following the hostage crisis — as a valid exercise of Zone 1 authority. The Court held that IEEPA's broad statutory language, combined with a long history of congressional acquiescence to executive action in this area, placed the President's authority firmly in Zone 1.

The same analysis applies here. IEEPA is explicit. The national emergency has been in continuous existence since 2018, renewed annually with congressional awareness and without congressional objection. The Order's financial blocking and sanctions authorities fall directly within IEEPA's statutory text.

C. Congressional Authorization: FARA

The Foreign Agents Registration Act, 22 U.S.C. § 611 et seq., is a congressional enactment that places affirmative obligations on organizations acting as agents of foreign principals in American political processes. The Act specifically authorizes — indeed requires — the Attorney General to enforce its provisions. Directing the Attorney General to enforce FARA is not merely authorized by Congress; it is compelled by the Act itself. This is Zone 1 at its most unambiguous: the President is directing the execution of a law Congress enacted for precisely this purpose.

D. Congressional Authorization: EO 13848 and the National Emergencies Act

The National Emergencies Act, 50 U.S.C. § 1601 et seq., authorizes the President to declare national emergencies and to exercise the special statutory powers made available by such

declarations. EO 13848, which declared a national emergency specifically regarding foreign electoral interference and has been renewed annually, constitutes an ongoing executive-legislative arrangement that places this Order firmly within Zone 1. Congress has had eight consecutive years to terminate or modify EO 13848's national emergency. It has not done so. Congressional acquiescence over that period constitutes, at minimum, implied authorization — and likely express authorization through the annual renewal process that Congress has observed and ratified.

IV. IEEPA PROVIDES INDEPENDENT AND BROAD STATUTORY AUTHORITY

A. Scope of IEEPA Authority

IEEPA grants the President the most expansive peacetime financial powers available in the American constitutional system. Once a national emergency is properly declared — which it has been, continuously, since 2018 — the President may block transactions, freeze assets, prohibit transfers, and impose sanctions with minimal procedural constraints. The courts have consistently upheld broad exercises of IEEPA authority.

B. Application to Foreign-Aligned Electoral Spending

Foreign-aligned electoral spending involves the transfer, use, and deployment of funds — financial transactions directly within IEEPA's scope. The Order's direction to the Secretary of the Treasury to identify, designate, and sanction individuals and organizations engaged in foreign-aligned electoral interference is a paradigmatic exercise of IEEPA authority: it targets financial activity, it operates through the Treasury/OFAC sanctions mechanism that has been upheld in dozens of cases, and it is grounded in an expressly declared national emergency.

C. The Dames & Moore Precedent

Dames & Moore v. Regan, 453 U.S. 654 (1981), is the landmark IEEPA authority case. The Supreme Court upheld President Carter's use of IEEPA to block Iranian assets and President Reagan's use of IEEPA to transfer those assets to Iran as part of the hostage resolution — a far more dramatic and intrusive use of executive financial power than anything contemplated by the Order. If IEEPA authorizes the President to transfer billions of dollars in assets to a foreign government as part of diplomatic negotiations, it unquestionably authorizes the President to

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sanction individuals engaged in undisclosed foreign-aligned electoral spending within the United States.

V. FARA ENFORCEMENT IS UNAMBIGUOUSLY WITHIN EXECUTIVE POWER

A. The Take Care Clause

Article II, Section 3 of the Constitution provides that the President "shall take care that the laws be faithfully executed." The Order's FARA enforcement direction is nothing more — and nothing less — than the President exercising this core constitutional duty. The President is directing the Attorney General to enforce a law Congress passed. This is the heartland of executive authority. It presents no constitutional question.

B. Executive Discretion in Enforcement Prioritization

The Supreme Court has consistently held that the executive branch has broad discretion in how it prioritizes enforcement resources and which statutory violations it pursues with what degree of vigor. *Heckler v. Chaney*, 470 U.S. 821 (1985). The Order's direction to establish a dedicated FARA Electoral Enforcement Unit, to conduct a comprehensive review within sixty days, and to pursue enforcement without political exception is an exercise of this enforcement discretion — directed toward *more* enforcement, not less. No court has ever held that a president directing more vigorous enforcement of existing law constitutes a constitutional violation.

C. No Novel Legal Theory Required

The FARA enforcement provisions of the Order require no novel legal theory, no expansion of existing authority, and no departure from settled precedent. They require only that the executive branch do what the law already requires it to do — enforce FARA — with the seriousness and consistency the law demands. Any constitutional challenge to this provision would be frivolous.

VI. THE NATIONAL SECURITY INTEREST INDEPENDENTLY JUSTIFIES THE ORDER

A. National Security as a Compelling Governmental Interest

The Supreme Court has long recognized that national security constitutes a compelling governmental interest capable of justifying significant restrictions on conduct — including conduct that would otherwise receive some degree of constitutional protection. *Holder v. Humanitarian Law Project*, 561 U.S. 1 (2010); *Haig v. Agee*, 453 U.S. 280 (1981).

The Order identifies a specific, documented, and ongoing national security threat: the systematic financial capture of the United States Congress by foreign-aligned organizations that have spent hundreds of millions of dollars to determine its composition. This is not a speculative or hypothetical threat. It is documented in Federal Election Commission filings, investigative reporting, and the findings of the Order itself.

B. The Deference Standard in National Security Cases

In matters touching national security and foreign affairs, courts apply a deferential standard to executive action. As the Supreme Court stated in *Zivotofsky v. Kerry*, 576 U.S. 1 (2015), the President has "a degree of independent authority to act" in foreign affairs that is "vast in scope." When the President determines that a foreign-aligned influence operation constitutes a national security threat and acts to counter it, courts apply substantial deference to that determination.

The Order's findings — that foreign-aligned organizations have spent over $221 million in American congressional elections, that they have used shell PAC structures to conceal the origin of their spending, and that they have financially coerced members of Congress — are facts in the public record. They are not manufactured pretexts. This documented factual predicate strengthens the Order's position in any judicial proceeding substantially.

C. The Interest in Electoral Integrity

Independent of national security, the Supreme Court has recognized "protecting the integrity of elections" as a compelling governmental interest. *Buckley v. Valeo*, 424 U.S. 1 (1976). The prevention of foreign financial influence over American elections satisfies this interest by definition. *Bluman* holds that this interest is compelling enough to justify a complete prohibition on foreign nationals' electoral spending. The Order's measures — disclosure, registration, sanctions against the most egregious actors — are significantly less restrictive than a complete prohibition and are therefore more easily justified by the same compelling interest.

VII. ANTICIPATED CHALLENGES AND RESPONSES

Challenge 1: "The Order Violates the First Amendment Rights of Domestic Organizations"

Response: The Order's prohibitions apply to foreign-aligned organizations and their conduits. Domestic organizations that do not receive foreign-aligned funding and do not act in the interest of foreign governments are not covered by the Order. A domestic PAC that independently raises and spends American money is not touched by this Order. The First Amendment challenge fails at the threshold: the regulated parties are foreign principals and their agents, not the American political community.

Challenge 2: "The Order Is Viewpoint Discrimination Because It Targets Pro-Israel Organizations"

Response: This is the most predictable and the most easily defeated challenge. Section 10 of the Order explicitly mandates equal application to all foreign-aligned electoral actors regardless of which nation's interests they advance. What applies to AIPAC applies equally to organizations advancing Russian, Chinese, Saudi, Iranian, or British interests. The Order is facially neutral as to viewpoint and as to national origin. Any court reviewing the Order's text will find no basis for a viewpoint discrimination claim.

Moreover, the Order does not prohibit speech *about* Israel or any other nation. It does not restrict advocacy, lobbying, or public communications. It restricts the use of foreign-aligned money to purchase the composition of the United States Congress. These are categorically different activities.

Challenge 3: "The IEEPA Sanctions Exceed Presidential Authority"

Response: *Dames & Moore v. Regan* definitively forecloses this argument. IEEPA is one of the broadest delegations of financial authority Congress has ever enacted. The Supreme Court has upheld its application in far more sweeping circumstances than those presented here. Within the scope of a properly declared national emergency — and EO 13848 has been in continuous force since 2018 — IEEPA grants the President authority to block financial transactions and impose sanctions. The Order's use of that authority is textbook IEEPA.

Challenge 4: "The National Emergency Is a Pretext"

Response: The national emergency covering foreign electoral interference has been in continuous force since September 12, 2018, through administrations of both parties. It has been renewed annually and explicitly. It covers precisely the threat the Order addresses: foreign interference in American elections. The Order's expansion of that emergency to explicitly cover domestic-operating foreign-aligned organizations is a logical, documented, and legally sound extension of an already-existing emergency declaration. There is no pretextual invocation of emergency power here — the emergency has existed for seven years and the threat it addresses has grown, not diminished.

Challenge 5: "The Order Is Unconstitutionally Vague"

Response: The Order's definitions of "Foreign-Aligned Organization," "Shell PAC Structure," and "Electoral Spending" are precise, specific, and drawn from existing statutory and regulatory language. Organizations subject to the Order's requirements can determine with reasonable certainty whether they fall within its scope. The vagueness doctrine requires only that laws give fair notice to regulated parties — a standard the Order's definitional framework easily meets.

Challenge 6: "The Order Violates Separation of Powers by Regulating Electoral Spending"

Response: The Order does not regulate electoral spending by domestic actors. It enforces FARA against foreign-aligned organizations, activates IEEPA sanctions against the most egregious actors, and directs investigative and disclosure activities. The regulation of domestic electoral spending remains exclusively within the domain of FECA and FEC jurisdiction. The Order operates in a different legal space: the regulation of foreign principals and their agents in American political processes — a space Congress has occupied through FARA since 1938.

VIII. CONCLUSION

The Executive Order on Defending American Electoral Sovereignty from Foreign-Aligned Influence Operations is constitutionally sound on every ground. The First Amendment does not protect foreign-aligned electoral interference — the Supreme Court has held this unanimously and without dissent. The Order's statutory authority under IEEPA and FARA is express, broad, and supported by controlling precedent. The Order's operation within Youngstown Zone 1 places it at the apex of permissible executive action. The national security interest it serves is specific, documented, and compelling.

The organizations that will challenge this Order in court are the same organizations that have spent hundreds of millions of dollars purchasing the United States Congress. Their legal challenge will be sophisticated. It will be well-funded. It will receive sympathetic coverage in outlets that have normalized their conduct. And it will lose.

It will lose because *Bluman* is the law. It will lose because IEEPA is the law. It will lose because FARA is the law. And it will lose because the United States of America — its courts, its Constitution, and its people — does not recognize the right of foreign governments to buy the legislature of the United States.

This administration will enforce that principle in every courthouse in the country for as long as it takes.

Prepared by the Office of the Counsel to the President Cordova Administration | cordova2028.com | info@cordova2028.com

This brief is a draft policy and legal framework prepared by the Cordova 2028 Presidential Campaign. It is intended for review and refinement by White House Counsel upon taking office. It does not constitute legal advice.

APPENDIX: KEY CASES AT A GLANCE

Case	Court	Holding	Relevance to Order
***Bluman v. FEC*, 565 U.S. 1104 (2012)**	Supreme Court	Foreign nationals have no First Amendment right to spend in American elections	Core First Amendment authority — forecloses principal challenge
***Citizens United v. FEC*, 558 U.S. 310 (2010)**	Supreme Court	Domestic corporations have electoral spending rights; foreign nationals expressly not addressed	Inapplicable to foreign-aligned organizations
***Meese v. Keene*, 481 U.S. 465 (1987)**	Supreme Court	FARA disclosure requirements are constitutional	Supports FARA enforcement direction

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***Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952)**	Supreme Court	Three-zone framework for presidential authority	Order operates in Zone 1 — maximum authority
***Dames & Moore v. Regan*, 453 U.S. 654 (1981)**	Supreme Court	Broad IEEPA authority upheld for asset blocking and transfer	Direct precedent for IEEPA sanctions provisions
***Buckley v. Valeo*, 424 U.S. 1 (1976)**	Supreme Court	Electoral integrity is a compelling governmental interest	Supports all Order provisions
***Holder v. Humanitarian Law Project*, 561 U.S. 1 (2010)**	Supreme Court	National security is a compelling interest justifying speech-adjacent restrictions	Supports national security justification
***Zivotofsky v. Kerry*, 576 U.S. 1 (2015)**	Supreme Court	President has vast independent authority in foreign affairs	Supports deference to executive judgment in Order
***Heckler v. Chaney*, 470 U.S. 821 (1985)**	Supreme Court	Executive has broad discretion in enforcement priorities	Supports FARA enforcement direction