UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

Central Maine Power Company, *et al.*,	)	
	)	
Plaintiffs,	)	
v.	)	No. 1:23-cv-00450-JCN
	)	
Maine Commission on Governmental Ethics and Election Practices, *et al.*,	)	
	)	
Defendants.	)	

AMICUS CURIAE BRIEF OF FREE SPEECH FOR PEOPLE IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR JUDGMENT ON THE PLEADINGS

INTEREST OF *AMICUS CURIAE*

Free Speech For People ("FSFP") files this brief in support of Defendants' Consolidated Opposition to Plaintiffs' Motions for Preliminary Injunction and Temporary Restraining Order (ECF No. 97, 98, 99, 103). FSFP is a national, non-partisan nonprofit public interest organization that litigates and advocates on democracy issues, including voting rights, constitutional accountability, and protecting elections from unlawful foreign influence.[1]

INTRODUCTION

In November 2023, Maine voters overwhelmingly spoke out in favor of a common-sense rule to protect Maine's democratic self-government from foreign influence: 85% of Maine voters voted in favor of a ballot measure to prohibit foreign-government-influenced corporate spending on its elections. Since that time, plaintiffs have pressed hard to block the law and deprive Maine

[1] No other party or party's counsel authored this brief in whole or part, and no person or entity other than amicus or its counsel contributed monetarily to its preparation or submission.

voters of basic control over their own elections, and they have now filed motions that would deprive Maine voters even of a discovery period and the opportunity to defend this law at trial. Their motions misstate Supreme Court precedent, the parties' own corporate governance, and the implications that the law has on speech.

Title 21-A M.R.S.A § 1064 ("the Act") prohibits corporations from making political contributions or expenditures if a foreign government or a foreign government-influenced entity owns 5% or more of the company. It is constitutional because: (1) a corporation, according to *Citizens United v. FEC*, 558 U.S. 310 (2010), is an association of its owners and its speech is the speech of this association; (2) corporations that are owned in material part by foreign governments are not associations of U.S. citizens and therefore can be subject to campaign finance limitations to protect Maine's democratic self-government; and (3) the law has no impact on the ability of the corporations' U.S. employees and owners to exercise political speech individually or collectively with other citizens and the corporations themselves retain ample political speech opportunities.

The Act does not, as plaintiffs repeatedly but incorrectly claim, silence the corporations. It merely closes a dangerous pathway for foreign money to enter U.S. elections.[2] It advances a compelling government interest and does so in a tailored way that protects Maine's democratic self-government while preserving even for foreign-government-influenced corporations (FGICs) vast opportunities to speak. The court should properly analyze the law in light of controlling precedent, recognize that there are significant issues of contested fact, recognize too that Maine

[2] The percentage of corporate equity that comes from foreign investment in the United States skyrocketed from 5% in 1982, to 40% in 2019. John C. Coates IV et al., *Quantifying Foreign Institutional Block Ownership at Publicly Traded U.S. Corporations*, Harv. L. Sch. John M. Ctr. For Law, Econ. & Bus., Discussion Paper No. 888 (Dec. 20, 2016), p. 14, *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2857957; Steve Rosenthan & Theo Burke, *Who's Left to Tax? US Taxation of Corporations and Their Shareholders*, Urban-Brookings Tax Policy Ctr., paper presented at N.Y.U. (Oct. 27, 2020), *available at* https://bit.ly/3uLjVqE.

voters are at risk for having their voices and their choices summarily silenced, and deny the plaintiffs' motions.

ARGUMENT

A. Plaintiffs' assertions that they are American corporations are highly contested, without support in the law or evidence, and inappropriate for resolution at this stage.

1. Corporate speech rights are derived from shareholders as a matter of law.

When a foreign-influenced corporation "speaks," who is actually speaking? The legal answer is clear: the speaker is, at most, a mixed association of citizen and non-citizen shareholders. The answer derives directly from the Supreme Court's *Citizens United* ruling, which concluded that corporate "speech" is merely the speech of its owners, acting in association. 558 U.S. at 349, 354, 356. When those owners are U.S. citizens, it is, according to *Citizens United,* an association of U.S. citizens that, at least for the purposes of independent expenditures, warrant the same speech protections that are afforded to individual U.S. citizens. *Id.* at 365. But as Mainers rightly recognized, when the corporation is not merely an association of U.S. citizens, the corporation's voice, purpose, and the rights it can claim change dramatically.

Seizing on a non-binding concurring judgment and dicta in the First Circuit's majority opinion, the corporate plaintiffs in this case seek to avoid discovery by advancing the novel argument that they are "American" companies, have the same First Amendment rights as human citizens, and that the Act should be permanently enjoined without any discovery or trial. In passing, the First Circuit stated that Central Maine Power ("CMP") is "run by U.S. Citizens," *Cent. Me. Power Co. v. Me. Comm'n on Gov't Ethics and Election Pracs.*, 144 F.4th 9, 26 (1st Cir. 2025), but did not explain what it meant, who the corporation is being run on behalf of, and appears to collapse the distinction between officers, employees, and shareholders. Judge Aframe went a step further, arguing that "American" corporations have speech rights without explaining

what an "American" corporation is, or why they have speech rights. *Id.* at 34 (Aframe, J., concurring). Now, CMP refers to itself as a "U.S. citizen," with First Amendment rights, but never explains where its alleged citizenship derives from. Cent. Me. Power Co.'s Mot. For J. on the Pleadings, 17, 20, ECF No. 98 ("CMP MJP"). Similarly, Versant refers to itself as an "American speaker," protected by the First Amendment, who is only "influenced" by its foreign owners. Versant's Mot. For J. on the Pleadings, 15–20, ECF No. 99 ("Versant MJP"). They are neither citizens nor "American speakers," and their arguments fundamentally misapprehend the nature of corporate speech rights and seek to avoid real, contested issues of fact at the heart of this litigation, which, at the very least, warrant further exploration via discovery and trial.

Shareholders—not employees or officers—determine the speech rights of a corporation. The Supreme Court announced in *Citizens United* that corporations have speech rights *because* they are "associations of citizens." 558 U.S. at 349, 354, 356. The government, it held, has no interest in discriminating against citizens who choose to speak via the corporate form. *Id.* at 365.

The opinion clearly refers to the citizenship of shareholders—not employees, officers, or the corporation itself. For example, the Court contrasted the ban on shareholders ability to speak via the corporate form with the ability of "[c]orporate executives and employees" to speak to politicians directly. *Id.* at 355. That is, while the corporate expenditures ban did not affect corporate officers and employees' speech, it did affect the speech rights of shareholders. That contrast would make no sense if the speech rights discussed in *Citizens United* derived from employees.[3]

[3] Some federal legislators have tried—and failed—to pass laws that would give employees a say in corporate governance. *See* Reward Work Act, H.R. 3694, 118th Cong. § 3 (2023) ("No issuer may register securities on a national exchange unless at least 1/3 of the issuer's directors are choosing by the issuing company's employees").

Further, employees and executives can be fired for speech contrary to the interests of a corporation—that is, contrary to the interests of its *shareholders*. *Cf. Staples v. Bangor Hydro-Elec. Co.,* 561 A.2d 499, 500–01 (Me. 1989) (affirming at-will employment rule in Maine where employee was fired, in part, for on-the-job speech). It would be illogical for a corporation to obtain speech rights from the very employees whose speech it controls. *Cf. Garcetti v. Ceballos*, 547 U.S. 410, 422 (2006) ("when public employees make statements pursuant to their official duties, the employees are not speaking as citizens," they are merely a conduit through which the government speaks). Indeed, no party contends that a foreign government could obtain speech rights by employing American citizens. *Cf. CMP*, 144 F.4th at 26 (foreign governments "do not have any First Amendment rights"). Members of corporate associations are not entitled to that transmutation either.

In addition, while foreign incorporation can *disqualify* a corporation from asserting First Amendment rights,[4] domestic incorporation alone does not *qualify* a corporation to the same First Amendment rights that are afforded to U.S. citizens. The most important inquiry remains, as the *Citizens United* Court clearly explained, whether the corporation's owners qualify as an "association of citizens." 558 U.S. at 349. While the Supreme Court declined to decide whether "the Government has a compelling interest in preventing foreign individuals or associations from influencing our Nation's political process," it presented the hypothetical of a corporation "funded predominately by foreign shareholders." 558 U.S. at 362. That hypothetical would have been incoherent if a corporation's speech rights can be determined solely from its place of

[4] A company incorporated in a foreign country is a foreign principal, regardless of the shareholders' citizenship. *See* 22 U.S.C. § 611 (defining foreign principal to include "corporation . . . organized under the laws of or having its principal place of business in a foreign country").

incorporation, as the corporate plaintiffs suggest.[5] In any case, subsequent to *Citizens United*, the Supreme Court made clear in affirming *Bluman v. FEC* that the government does indeed have a compelling influence in protecting elections from foreign influence sufficient to justify prohibiting foreigners from making expenditures to influence an election. 800 F.Supp.2d 281, 291–92 (D.D.C.), *aff'd*, 565 U.S. 1104 (2012).

That corporations derive speech rights from their shareholders is not only recognized in *Citizens United*, but also follows directly from black letter corporate law. Under Maine law, which controls the corporate governance of both corporate plaintiffs, "[a]ll corporate powers must be exercised by or under the authority of . . . the corporation's board of directors." 13-C M.R.S., § 801(2). The directors are elected by the shareholders. *Id.* §§ 803(3), 808. They can be removed only by shareholders, *id.* § 808, or in a judicial proceeding commenced by shareholders or the corporation itself, *id.* § 809. If all of a corporation's shares are to be bought by another corporation, existing shareholders must approve. *Id.* § 1104. And though directors exercise their own powers—including the ability to appoint or remove corporate officers and to establish officers' powers to the extent they are not already set forth in the corporate bylaws, *id.* §§ 841, 842, 844.2—they are controlled by the owners and shareholders.

Maine law is not exceptional; thirty-four states use virtually the same statutory language to describe how shareholders control corporations.[6] The general academic consensus is that

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[5] Judge Aframe cites that passage in claiming that "American" corporations have absolute free speech rights unless they are "controlled" by foreign governments, but fails to consider the source of the speech rights or what makes a corporation "American." *CMP*, 144 F.4th at 34 (Aframe, J., concurring).

[6] *Model Business Corporation Act Resource Center*, The American Bar Association (April 25, 2025), https://www.americanbar.org/groups/business_law/resources/model-business-corporation-act/ (accessed January 20, 2026). Delaware has similar rules, though it adopts slightly different language. *See* 8 Del. C. §§ 141, 212.

shareholders control corporations and corporate officers and managers act in their interests.[7] Indeed, the First Circuit has repeatedly recognized that shareholders "control" corporations. *See generally In re PHC, Inc. Shareholder Litigation*, 894 F.3d 419 (1st Cir. 2018). Allowing shareholders to control the corporation via the board of directors is the "price" of the corporate form. *See, e.g.*, *Wagner v. BRP Group, Inc.*, 316 A.3d 826, 855–56 (Del. 2024) (striking as invalid a contract that gave the company's founder veto power over management decisions as long as he held 10% of the corporation's stock).

Corporate plaintiffs also point to their long history in Maine as purported evidence of their American identity. CMP MJP, 2, ECF No. 98; Versant MJP, 2, ECF No. 99; *see also CMP*, 144 F.4th at 26 (similarly referencing this history without explaining its legal import). This history is irrelevant to the matter before the Court. When stock in a company is transferred, control of that company is transferred to the new shareholders. The corporation survives as a legal entity, with its property, contracts, and liabilities intact. 13-C M.R.S., § 1107. But its speech rights, if any, now derive from its new owners.

[7] The shareholder-centric theory of corporate governance suggests that, as a matter of law, corporations prioritize the maximization of investor profits before considering the interests of others, such as management, employees, or social responsibility initiatives. Robert J. Rhee, *A Legal Theory of Shareholder Primacy*, 102 Minn. L. Rev. 1951, 1951–55 (2017), *available at* https://ssrn.com/abstract=2938806; Edward B. Rock, *Adapting to the New Shareholder-Centric Reality*, 161 U. Pa. L. Rev. 1907, 1910 (2013); Henry Hansmann & Reinier Kraakman, *The End of History for Corporate Law*, 89 Geo. L.J. 439, 439 (2001) ("There is no longer any serious competitor to the view that corporate law should principally strive to increase long-term shareholder value."). Furthermore, shareholders have multiple avenues, in addition to the direct election of directors, to influence corporate decision-making. Sarah C. Haan, *Shareholder Proposal Settlements and the Private Ordering of Public Elections*, 126 Yale L.J. 262, 293–97 (2016) (arguing that shareholder proposals are often settled rather than voted on, allowing minority shareholders to influence corporate decision-making by merely making a proposal); Paul H. Edelman, Randall S. Thomas & Robert B. Thompson, *Shareholder Voting in an Age of Intermediary Capitalism*, 87 S. Cal. L. Rev. 1359, 1369 (2014) ("Advisory shareholder votes can lead to important governance changes.").

For example, CMP is wholly owned by Avangrid, Inc., a corporation that (as of Nov. 21, 2025) is wholly owned by Iberdrola, S.A., a Spanish corporation. CMP MJP, 2, ECF No. 98. 8.7% of Iberdrola is owned by the Qatari sovereign wealth fund. *CMP*, 144 F.4th at 15. CMP, a corporation wholly owned by a foreign entity, is not a "U.S. citizen." *Contra* CMP MJP, 17, 20, ECF No. 98. Versant is wholly owned by the ENMAX Corporation, which in turn is wholly owned by the City of Calgary, Canada. Versant MJP, 3, ECF No. 99. Versant is not an American "speaker." *Contra* Versant MJP, 16, 17, 18, ECF No. 99.[8]

Both corporations, now owned in whole or part by foreign owners, are comparable to former American citizens who renounced their citizenship. The fact that those individuals previously had certain rights—to vote, to participate in core democratic processes, to reside in the United States—is not legally relevant to their post-renunciation rights. *Cf. Davis v. District Director, INS*, 481 F. Supp. 1178, 1183 n.8 (D.D.C. 1979) (person who renounced U.S. citizenship was a non-citizen and could not rely on Maine "citizenship" to justify his return to the United States without a visa). CMP and Versant essentially "renounced" their American speech rights when they were bought by non-citizen shareholders.[9]

Indeed, by the plaintiffs' logic—that the shareholder and owner citizenship is irrelevant to inquiries into corporate speech rights—then Russia, China, or any other foreign government could buy shares of a company incorporated in the United States, place Americans on the Board of Directors, and order those directors to pour millions into U.S. elections—and those contributions and expenditures would have to be treated as speech by a U.S. citizen, and neither

[8] Versant acknowledges that it is regulated by Maine because it is owned by a foreign government. Versant MJP, 3, ECF No. 99. However, it seems to imply that this precludes a finding that it is controlled by that government. Regardless of Maine's regulation of Versant, it has no "American" owner and is certainly not an association of citizens.

[9] Under Maine law, shareholders approve mergers or stock exchanges. 13-C M.R.S., § 1104.

states nor the federal government would be allowed to assert its state interest in "democratic self-government" to block that money. Foreign entities could hide behind the place of incorporation in order to wield influence over U.S. elections. Versant goes so far as to suggest this foreign interference is not only happening, but *beneficial*. Versant MJP, 19–20, ECF 99 ("That foreign-government investor with stakes in companies worldwide could have . . . learned lessons worthy of consideration by another investment—an American-controlled corporation with interests in Maine"). This Court should reject that conclusion. While a corporation is free to serve the interest of its foreign government owners, Maine voters are free to prohibit foreign governments from imposing their interests on Maine's democracy through their substantial ownership of companies incorporated in the United States.

FGICs are *at best* corporate association hybrids of citizens and non-citizens. The presence of some U.S. citizens in the association cannot inoculate that association from the financial (and other) influence that its non-citizen owners may wield; does not allow the rights of the citizens to pass to the non-citizen; and does not defeat the state's interest in protecting its democracy from that financial influence. *See Agency for Int'l Dev. v. All. for Open Soc'y Int'l, Inc*., 591 U.S. 430, 438 (2020) (rejecting constitutional challenge to Congress's speech-related funding conditions on foreign entities affiliated with American organizations because U.S. entities "cannot export their own First Amendment rights" to the foreign entities with which they associate); *Ysursa v Pocatello Educ. Ass'n*, 555 U.S. 353, 363 (2009) (municipal corporations, whose members primarily are U.S. citizens, have no First Amendment rights). And for good reason. As then-chief executive officer of ExxonMobil succinctly explained in describing the role of a CEO in a global corporation: "I'm not a U.S. company and I don't make decisions

based on what's good for the U.S."[10] This makes sense in light of our globalized economy, black letter law that makes corporations the voice of its shareholders, and the power that shareholders wield. But while companies like Exxon must make decisions on behalf of foreign shareholders, Maine is not obligated to allow those interests to influence its own elections.

The question therefore is not whether the corporation was incorporated in the United States, or whether its employees are citizens. The question is whether the corporation is an association of U.S. citizens; where it is not, the state's plainly applicable state interest in preserving its democratic self-government is compelling and warrants, at the very least, assessment through discovery and trial.

2. Maine's concerns about foreign money entering its elections are not merely hypothetical.

States are entitled to protect their elections from threats without waiting for the threat to occur. *See Brnovich v. Democratic Nat'l Comm.*, 594 U.S. 647, 686 (2021) (with regard to concerns of fraud, states are "not obligated to wait for something similar to happen closer to home"); *Burson v. Freeman*, 504 U.S. 191, 207–09 (1992) (plurality opinion) (the state need not wait for elections to become tainted and are "permitted to respond to potential deficiencies in the electoral process with foresight rather than reactively") (quoting *Munro v. Socialist Workers Party*, 479 U.S. 189, 195–96 (1986)).

Maine's concern for its elections "is part of a common international understanding of the meaning of sovereignty and shared concern about foreign influence over elections." *Bluman*, 800 F.Supp.2d at 291–92. Even at this early stage, the record demonstrates that Mainers are deeply aware that the globalized economy and corporate law provide powerful shareholders with multiple

[10] Bernard Vaughan, *Global Power of ExxonMobil Spotlighted in New Coll Book*, Reuters (Apr. 27, 2012), https://www.reuters.com/article/books-exxonmobil-idUSL2E8FQP6B20120427 (accessed Jan. 20, 2026).

avenues to influence corporate decisions, including political spending decisions, and that many of these avenues are shrouded in secrecy. They are aware that FGICs are spending big in Maine's elections and elsewhere in the country. And they understand the well documented history of foreign influence in U.S. elections. *See id.* at 283–84 (detailing the history of foreign influence that led to federal limits on foreign spending in campaigns); Letter from Professor John Coates to California Assemblyman Lee, at 2–5 (Apr. 21, 2022), *available at* https://freespeechforpeople.org/wp-content/uploads/2022/04/coates-california-ab1819-written-testimony-20220419.pdf (detailing instances of foreign spending in U.S. elections).

Defendants have also demonstrated the rationale of the 5% threshold, and Mainers' credible concerns about ways in which foreign government money can fill general treasury coffers and foreign governments can exercise significant direct and indirect authority over corporate decisions. A foreign government member with 5% ownership of a hybrid corporate association often is and can become its dominant voice and most powerful interest. *See, e.g.*, Sarah C. Haan, *Shareholder Proposal Settlements and the Private Ordering of Public Elections*, 126 Yale L.J. 262, 293–97 (2016) (arguing that shareholder proposals are often settled rather than voted on, allowing minority shareholders to influence corporate decision-making by merely making a proposal); Paul H. Edelman, Randall S. Thomas & Robert B. Thompson, *Shareholder Voting in an Age of Intermediary Capitalism*, 87 S. Cal. L. Rev. 1359, 1369 (2014) ("Advisory shareholder votes can lead to important governance changes.").

The plaintiffs' own ownership structures, in light of Maine law and corporate governance practice, underscore the validity of Mainers' concerns. CMP concedes that "the identity of the persons who hold an equity interest in CMP has changed over the course of its 126-year history." CMP MJP, 2, ECF No. 98. The parties that control CMP, the association to which its corporate

First Amendment rights do—or do not—attach, have changed, and now include powerful controlling foreign entities. There may be good financial reasons for this, but neither CMP's financial interests nor the interests of any other foreign-government-influenced corporation should obligate Mainers to keep open a pathway between foreign governments and its elections. And Mainers have good reason to be concerned about that pathway—including reasons supplied by the plaintiffs themselves. These concerns are not just hypothetical. Both CMP and Versant acknowledge that they want to, and have, spent on Maine elections.

For example, in 2024, Avangrid, CMP's parent company, gave $100,000 to the Republican State Leadership Committee shortly after 85% of Maine voters approved the Act; as virtually the sole financial backer, it spent $500,000 in support of a ballot initiative restricting access to the vote in Maine.[11] In other words, a corporate association made up almost entirely of a Spanish corporation, *CMP*, 114 F.4th at 15 (in 2024, Iberdrola owned 81.6% of Avangrid), that is in turn partly owned by the Qatari sovereign wealth fund, spent money to oppose democratic participation in Maine, presumably because that participation might threaten its business interests.[12] Notably, the independent contributions of CMP employees and U.S. citizen or permanent resident shareholders diverged dramatically from those of the corporation in 2024.[13]

[11] Dave Anderson, *Utility and fossil fuel money lurks behind Maine Question 1 attack on absentee voting*, Energy & Policy Institute (Oct. 22, 2025), https://energyandpolicy.org/money-behind-question-1-maine/ (accessed Jan. 20, 2026).

[12] Qatar's sovereign wealth fund is the largest single shareholder of Iberdrola, S.A. Significant Shareholders, Iberdrola (July 31, 2025), https://www.iberdrola.com/shareholders-investors/share/share-capital/shares (accessed Jan. 20, 2026).

[13] Virtually all of the $3,294 of their federal election-related contributions went to Democratic candidates, underscoring the fact that corporations do not and should not be presumed to serve as the voice for its employees. Open Secrets, *Central Maine Power Summary*, https://bit.ly/45idsH8, (accessed Jan. 20, 2026).

Across the country, other FGICs are spending big in local and state elections. For example, DoorDash is 7% owned by GIC Private Limited (Singapore's sovereign wealth fund), and Saudi Arabia has long been one of Uber's largest investors.[14] Both poured money into New York's local 2025 elections to exercise powerful influence over local and state legislative bodies, and into Massachusetts petition campaigns in 2023.[15]

While the expenditures and contributions themselves are known, the conversations that prompted them were made in private, not available in any public record. They rarely are. *Cf. Citizens United*, 558 U.S. at 455 (Stevens, .J., concurring in part and dissenting in part) (arguing that corporate independent expenditures do generate quid pro quo corruption, but that "[p]roving that a specific vote was exchanged for a specific expenditure has always been next to impossible . . . ."). This exemplifies the need for discovery in this case; furthermore, it supports, rather than undermines, the constitutionality and rationality of Maine's decision to protect its elections from foreign money. *See, e.g.*, *Wagner v. FEC*, 793 F.3d 1, 20 (D.C. Cir. 2015) ("[L]ess direct evidence is required when, as here, the government acts to prevent offenses that 'are successful precisely because they are difficult to detect.'") (quoting *Burson*, 504 U.S. at 208).

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[14] *GIC Private Updates Holdings in DoorDash (DASH)*, NASDAQ (Feb. 13, 2023), https://www.nasdaq.com/articles/gic-private-updates-holdings-in-doordash-dash (accessed Jan. 20, 2026); GIC Private Limited, ("We are driven by a common purpose—securing Singapore's financial future.") https://www.gic.com.sg/ (accessed Jan. 20, 2026); Rohan Goswami, *Lucid, Activision, EA, Uber: Here's Where Saudi Arabia's Sovereign Wealth Fund Has Invested*, Business Insider (July 11, 2023), https://www.cnbc.com/2023/07/11/activision-ea-uber-heres-where-saudi-arabias-pif-has-invested.html (accessed January 20, 2026); Eric Newcomer, *The Inside Story of How Uber Got Into Business with the Saudi Arabian Government*, Bloomberg (Nov. 3, 2018), https://bloom.bg/2SWWDgv (accessed January 20, 2026).

[15] Claudia Irizarry Aponte, *Uber and DoorDash Accelerate Spending Local Council Races*, The City (May 29, 2025), https://www.thecity.nyc/2025/05/29/uber-doordash-political-spending-city-council-races-shahana-hanif/ (accessed Jan. 20, 2026; Year-end Report 1/1/2024-12/31/2024, Flexibility and Benefits for Massachusetts Drivers 2024 Committee, Receipts, Massachusetts Office of Campaign and Political Finance, https://ocpf.us/reports/displayreport?id=960761 (accessed January 20, 2026).

B. *Bluman*'s compelling government interest is clearly applicable here.

The Act advances a compelling government interest to preserve Maine's democratic self-government. It is the same interest that a three-judge panel recognized in *Bluman v. FEC*, 800 F. Supp. 2d 281 (D.D.C. 2011), *aff'd*, 565 U.S. 1104 (2012). There, a three-judge panel of the U.S. District Court for the District of Columbia, led by then-judge Brett Kavanaugh of the U.S. Court of Appeals for the D.C. Circuit, sitting by designation, upheld a longstanding federal law that prohibits *any* spending, either "***directly or indirectly***," in local, state, or federal elections by foreign persons or entities, *id* at 281(quoting 2 U.S.C. § 441e, now codified at 52 U.S.C. § 30121(a)) (emphasis added). This broad and complete prohibition is constitutional because, as the courts correctly understood, "[p]olitical contributions and express-advocacy expenditures are an integral aspect of the process by which Americans elect officials to federal, state, and local government offices," and the state has a compelling interest in "limiting the participation of foreign citizens in activities of American democratic self-government, and in thereby preventing foreign influence over the U.S. political process." *Bluman*, 800 F. Supp. 2d at 288.

Judge Kavanaugh noted a long line of Supreme Court cases holding that the government may exclude foreign citizens from activities "intimately related to the process of self-government." *Bluman*, 800 F. Supp. 2d at 287 (quoting *Bernal v. Fainter*, 467 U.S. 216, 220 (1984)); *id.* (collecting cases). As *Bluman* explained:

> We read these cases to set forth a straightforward principle: it is fundamental to the definition of our national political community that foreign citizens do not have a constitutional right to participate in, and thus may be excluded from, activities of democratic self-government. **It follows, therefore, that the United States has a compelling interest for purposes of First Amendment analysis in limiting the participation of foreign citizens in activities of American democratic self-government,** and in thereby preventing foreign influence over the U.S. political process.

Id. at 288 (emphasis added). Irrelevant to the court in *Bluman* was the question of whether any of the plaintiffs had strong ties to the place in whose elections they sought to influence. Bluman himself had strong ties to the United States. He had a lawful visa, was educated in the United States, worked here, and had taken an oath as an attorney to uphold the law. *Id.* at 285. Moreover, the amount he sought to spend was vanishingly small, including minor independent expenditures to print homemade fliers. *Id.*[16] These facts could not overcome the basic principles espoused by the court: that elections are at the heart of our democratic self-government, and therefore stringent limitations on the participation of foreign entities are constitutional up to and including a complete prohibition of direct or indirect election spending by individuals who are not citizens or permanent residents. *Id.* at 288–89; *Thompson v. Hebdon*, 7 F.4th 811, 827 n.7 (9th Cir. 2021) (the distinction "between United States citizens and foreign nationals" "was the very basis for the *Bluman* court's holding" (quotation marks omitted)).

The plaintiffs now ask this Court to presume that the judges of the panel and the Supreme Court were ignorant of the breadth of Section 30121(a)'s prohibition, or of the precise language of the opinion. CMP MJP, 18, ECF 98; Versant MJP 17–20, ECF 99. They were not. *See Bluman*, 800 F. Supp. 2d at 284 (quoting the law). The judges understood the breadth of the law they upheld; why the state has a compelling interest in the complete prohibition of direct and indirect foreign spending on U.S. elections; and why a separate, unique compelling state interest becomes relevant to First Amendment analysis of campaign finance laws that seek to keep foreign influence out of our elections. The judges also were aware of the holding in *Citizens United*. *Bluman* was decided

[16] Bluman's connection to the United States stands in stark contrast to CMP and Versant, which, though founded in Maine, are now substantially owned by foreign parent companies and shareholders whose own connection to the United States is far less than Bluman's. Regardless, then-Judge Kavanaugh correctly ruled that Bluman had no interest in spending money on American elections even while in the United States. *Bluman*, 800 F. Supp. 2d at 288–89.

two years *after Citizens United*, and specifically recognized that "*Citizens United* is entirely consistent with a ban on foreign contributions and expenditures," *Bluman*, 800 F. Supp. 2d at 289.[17] As *Bluman* explained, the government has a compelling interest to preserve democratic self-government against encroachment of foreign interests and money—an interest at issue in *Bluman* and here, but not in *Citizens United*. *Bluman* says precisely what it means. Its conclusion is applicable here: a state has a compelling interest in preserving its democratic self-government and warrants a total prohibition on foreign money being spent directly or indirectly on U.S. elections.

C. The law is narrowly tailored.

1. The Act does not restrict the political spending of any U.S. citizen and the Plaintiff corporations themselves retain significant political speech.

The plaintiffs repeatedly suggest that the Act silences the corporations and U.S. citizens. *See, e.g.*, CMP MJP, 17, ECF 98; Versant MJP, 16, ECF 99. It does not. First, the Act does not prohibit or restrict contributions or expenditures by *any* U.S. citizen, permanent resident, or associations of citizens. It only prohibits political contributions and expenditures by foreign-influenced corporations that are not associations of citizens. When an FGIC speaks, it does so as and on behalf of its owners. A corporation that is at least 5% owned by a foreign government is a hybrid association of citizens and foreign governments whose resources, voice, and influence

[17] Judge Kavanaugh also concluded that Justice Stevens' commentary on the federal ban on foreign election spending is "a telling and accurate indicator of where the Supreme Court's jurisprudence stands." *Bluman*, 800 F. Supp. 2d at 289. Justice Stevens noted that the Court had "never cast doubt on laws that place special restrictions on campaign spending by foreign nationals …. The notion that Congress might lack the authority to distinguish foreigners from citizens in the regulation of electioneering would certainly have surprised the Framers, whose 'obsession with foreign influence derived from a fear that foreign powers and individuals had no basic investment in the well-being of the country.'" *Citizens United*, 558 U.S. at 424 n.51 (Stevens, J., dissenting in part and concurring in part) (citation omitted). Judge Kavanaugh was correct; the Supreme Court affirmed the *Bluman* ruling. *Bluman v. FEC*, 565 U.S. 1104 (2012).

becomes substantial part of the corporation's political spending decisions, and in whose interests the corporation is bound by law to act.

Second, the Act *only* prohibits election and ballot initiative spending by FGICs, leaving significant forms of political speech still available to them. FGICs can give interviews and answer questions from journalists; news stories, commentaries, and editorials, including those published online, are wholly exempt from the law. 21-A M.R.S. § 1052(4)(B)(1); *Bailey v. Me. Comm'n on Gov't Ethics & Election Pracs.*, 900 F. Supp. 2d 75, 88–89 (D. Me. 2022). FGICs can distribute communications to their stockholders. 21-A M.R.S. § 1052(4)(B)(3). They can publish posts on their own websites and social media accounts, allowing them to reach anyone who seeks out their speech. They also can engage in, pay for, or contribute to Get Out The Vote efforts. 21-A M.R.S. §§ 1052(4)(B)(7), 1012(2)(B)(10). They can lobby candidates and representatives.[18] They can speak on political, social, and economic issues in a variety of forums. FGICs can also form political action committees, to which U.S. citizen and permanent resident owners, directors, and employees may contribute money, and can then contribute or expend money on behalf of those individuals. FGICs are only barred from pouring money into campaigns or paying to have their words amplified to a wider audience than those who might seek their opinions out. That is a far cry from being silenced. *See Williams-Yulee v. Florida Bar*, 575 U.S. 433, 452–53 (2015) (rejecting the dissent's claim that a law limiting judicial campaign fund solicitations imposes a "gag" on candidates or silences public debate, by listing the many forms of speech still available to candidates).

[18] Even as CMP argues that the Act "silence[s] it" and is not narrowly tailored enough, CMP claims that it is *underinclusive* for not banning CMP from lobbying. CMP MJP, 26, ECF No. 98. But the First Amendment "requires that [a law] be narrowly tailored, not that it be 'perfectly tailored.'" *Williams-Yulee v. Florida Bar*, 575 U.S. 433, 454 (2015) (quoting *Burson v. Freeman*, 504 U.S. 191, 209 (1992)). "[T]he First Amendment does not put a State to that all-or-nothing choice," and courts "will not punish [a state] for leaving open more, rather than fewer, avenues of expression . . . ." *Williams-Yulee*, 575 U.S. at 452.

Third, U.S. citizens or permanent residents who own stock in FGICs remain free to spend unlimited amounts of their own money on elections and referenda. Those who wish to associate their political speech with the FGIC may establish and/or contribute to PACs that are funded solely by contributions from FGIC owners, directors, and employees who are also U.S. citizens or permanent residents. U.S. citizens and permanent residents who wish to engage in political speech via corporate associations may do so via ownership in any corporation that has less than 5% of its ownership held by foreign governments. It is absurd and, more to the point, false to suggest that FGICs (let alone their citizen or permanent resident owners) are silenced by the Act.

2. **The Act has, at most, incidental effect on citizens' speech.**

The Act places reasonable limitations on FGIC corporate campaign spending to protect Maine's democratic self-government from foreign governments that have no First Amendment right to spend on U.S. elections. Any incidental effects it may have on protected speech does not render the law unconstitutional. *See United States v. O'Brien*, 391 U.S. 367, 376–77 (1968).

That some U.S. speakers may wish to enhance their speech by also speaking in conjunction with foreign entities provides no basis to enjoin a law that prohibits those foreign entities from spending money on Maine's elections. As the Supreme Court explained in *Alliance for Open Society International*: "We appreciate that plaintiffs would prefer to affiliate with foreign organizations that do not oppose prostitution. But Congress required foreign organizations to oppose prostitution in return for American funding. And plaintiffs cannot export their own First Amendment rights to shield foreign organizations from Congress's funding conditions." 591 U.S. 430, 437–38 (2020). U.S.-incorporated companies are not required by law to allow themselves to be purchased by foreign governments; and U.S. citizens are not required by law to buy or retain stock in those corporations. They are free to do so; but the result is an association of citizens and foreign entities that do not share their First Amendment rights. *See id*. at 439.

There is nothing novel about the idea that the nature and ownership structure of a legal entity determines what, if any, political speech rights accrue to that entity. For example, while an individual is free to directly contribute to candidates and corporations may spend to influence the election of candidates, corporations cannot contribute to candidates and individuals. *See Citizens United*, 558 U.S. at 358–59 (noting that the corporate ban on candidate contributions stood). Similarly, the government may prohibit 501(c)(3) organizations from "participat[ing] in, or interven[ing] in (including the publishing or distributing of statement), any political campaign on behalf of (or in opposition to) any candidate for public office," 26 U.S.C.§ 501(c)(3), thereby prohibiting U.S. citizens from choosing to use their 501(c)(3) donations to influence elections. *Cf. Regan v. Tax'n With Representation of Wash.*, 461 U.S. 540, 543–45 (1983) (the government may distinguish between 501(c)(3) and 501(c)(4) organizations, including that contributions to 501(c)(3) organizations are tax-deductible while contributions to 501(c)(4) organizations are not). And non-profit organizations can constitutionally be required to incorporate and lobby through a separate entity. *Id.* at 544–45 & n.6. In other words, the fact that a law limiting the activity of a particular legal entity may thereby prevent U.S. citizens from exercising their political speech and spending through that entity does not render the law an unconstitutional restriction on those individual speech rights. That is precisely the case here: while the Act bars political spending of FGICs and thereby limits the ability of individuals to exercise their political speech rights through FGICs, it does not diminish nor violate those individuals' political free speech rights.

3. **The 5% threshold reflects a reasonable, evidence-based understanding of corporate ownership structures.**

The Act's 5% threshold reflects Mainers' evidence-based understanding of how foreign governments that hold 5% or more ownership of a corporation have and can wield significant influence over that corporation, including its political contributions and expenditures. They can

wield influence through shareholder proposals, *see* 17 C.F.R. § 240.14a-8; through proxy fights that can be waged successfully with much less than 5% stake in a company[19]; and through informal mechanisms of pressure and communication available only to the largest shareholders, which would include an entity holding at least 5% of the company.[20] These are undisputed facts about corporate governance; and even if plaintiffs still insist that foreign governments that own 5% or more of a corporation do not wield significant influence over that corporation, it is at very least a highly contested question that does not warrant resolution before discovery.

CONCLUSION

For the forgoing reasons and those in Defendants' briefs, the motions should be denied.

Dated: Respectfully submitted,

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[19] Michael R. Levin, *Activists Wins Another Vote Under Universal Proxy*, Harv. L. Sch. Forum on Corporate Governance (May 18, 2023), https://bit.ly/3obvM2h (accessed Jan. 20, 2026); Lillian Rizzo & Alex Sharman, *Nelson Pelz Increases Disney Stake, Reignited Potential Proxy Battle*, CNBC (Oct. 9, 2023), https://www.cnbc.com/2023/10/09/nelson-peltz-increases-disney-stake-reignites-potential-proxy-battle.html (accessed Jan. 20, 2026).

[20] Ltr. from Professor John Coates to California Assemb. Lee, at 8 (Jan. 5, 2024), *available at* https://freespeechforpeople.org/wp-content/uploads/2022/04/coates-california-ab1819-written-testimony-20220419.pdf ("for a publicly-traded corporation, one percent is in fact a very large ownership stake, and some of the largest and most influential-in-governance investors rarely if ever hold that much").

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