

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Senator Mitch McConnell, *et al.*,

Plaintiffs,

v.

Federal Election Commission, *et al.*,

Defendants.

Case No. 02-0582 (CKK, KLH, RJJ)

All consolidated cases.

DECLARATION OF DONALD FOWLER

The Affiant, being duly sworn, deposes and says:

1. My name is Donald L. Fowler. I reside in Columbia, South Carolina.
2. From 1971 until 1980, I served as Chairman of the South Carolina Democratic Party. From January 1995 until January 1997 I served as Chairman of the Democratic National Committee. Other positions that I have held with the Democratic Party are enumerated in Attachment A.
3. During the time that I served as chairman of the DNC, the DNC and its sister organizations, the Democratic Senatorial Campaign Committee and the Democratic Congressional Campaign Committee, raised large amounts of "soft money," but even so the Republican Party raised more of this category of political money during this same period than we did.
4. One of my principal responsibilities as Chair of the DNC was to raise money.

Other DNC officers participated in this effort as did a number of Executive

Department and Congressional officials, including President Bill Clinton and Vice

President Albert Gore, Jr. We raised soft money in amounts ranging from \$5,000 to at least \$400,000 from individuals, corporations, and labor unions. Hard money or federal money (the terms were used interchangeably) was raised in many small contributions of less than \$100 up to a limit of \$20,000.

5. During the summer of 1995 when the DNC was reviewing its fund raising policies, I recommended that we restrict contributions to the DNC to \$2,000 or less for both hard and soft money. This recommendation was not adopted. Even so, I continued to be of the opinion that limiting contributions from individuals, corporations, unions and other entities to modest sums is good, essential, appropriate public policy. Based on more than three decades of study, research, teaching, and fund raising at the local, state and national levels, my strong opinion is still that contributions to parties and campaigns should be limited to modest sums. This policy should apply to the Democratic and Republican committees and campaigns involving federal candidates.
6. This position is based on both logic and experience. Many contributors of large sums of money – both Republicans and Democrats – gain access to party and governmental officials that they otherwise would not have. With this access, contributors are able to make their cases to people who make public policy and take official governmental action. Those who contribute small amounts of money do not have this advantage and thus are unable to influence government with the same effectiveness. This money-based advantage exists not only in politics, but also in churches, universities, the United Way, the United States

Chamber of Commerce, and the National Organization of Women. This easy

access based solely on money creates a favored class, the members of which have much greater opportunity to make their case for their issues and their interests.

Logically and factually this tilts the American political system toward the rich and away from average citizens.

7. One should understand that this system has been legal – but critically flawed. Making it illegal is good policy that will improve the fundamental fairness of the American political system, one of the principal goals of McCain-Feingold.
8. Party and government officials participate in raising large contributions from interests that have matters pending before Executive agencies, the Congress, and other government agencies. Party officials, who are not themselves elected officials, offer to large money donors opportunities to meet with senior government officials. Donors use these opportunities – White House and congressional meetings – to press their views on matters pending before the government. This process undermines our democratic processes and creates a lack of confidence in its fairness on the part of average citizens.
9. I do not fault party officials for playing this role so long as it is legal. Indeed, I believe that party officials have a responsibility to provide linkage between party members, the people and their government. Party officials should do this for small and large contributors and those who do not contribute at all. As long as the system permits big money contributors, however, they will inevitably have a disproportionate advantage. I recognize this as a fact. The solution is to change the party and campaign finance system to eliminate, or at least reduce, the extra

influence of contributors of large sums of money. I do believe and insist, however, that party officials have a duty and responsibility to provide linkage between the people and the government.

10. During my tenure as DNC chair there is no evidence that any one of our contributors of large sums of money received a quid pro quo, i.e., a substantive governmental benefit. But the mere fact that larger contributors have an advantage in making their case is sufficient reason to adopt new policies and procedures.
 11. One much publicized case of large contributions and alleged political influence involved the Hudson Indian Casino. During the 1990's, Indian tribes in Wisconsin sought permission from the Department of the Interior to establish a casino in Hudson, Wisconsin. Certain Minnesota tribes opposed this application because they had pre-existing facilities where gambling took place. Some individuals in these tribes were supporters of the Democratic Party. At the request of an old friend whom I admired and respected, I met with some of the leaders of the Minnesota tribes who opposed the casino. They presented their views on the casino application to me. Thereafter, I informed White House officials of the meeting and asked them to review the matter – without recommending any course of action. While I did not know it at the time, I later learned that representatives of both sides in this issue had contacted almost every member of the Wisconsin and Minnesota Congressional delegations as well as Administration officials. During the 1995-1996 election cycle, the Minnesota tribes contributed substantial sums of money to various Democratic Party committees.
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12. Soft money does not necessarily strengthen political parties. Both major parties use aggressive techniques in raising large sums of money because they feel that they are locked in an "arms race" with each other. Neither believes it can afford to fall behind the other, for fear of being outspent and losing key federal and state elections. This intense focus on raising larger and larger amounts from relatively few special interest sources does not make for stronger or better parties. This is particularly true for Democrats, because we are the party of average Americans, while most wealthy individuals and special interest groups tend to favor Republican politicians. Raising more money in smaller amounts from a larger number of people would certainly strengthen the Democratic Party by providing us with a stronger base of active citizens.

12. National parties can perform their important functions without large soft or hard money contributors. Large soft money contributions are a relatively recent phenomenon, yet the parties were vibrant, functional and effective prior to the advent of gross soft money contributions. They can continue to be effective without soft money.

13. The increased hard money limits in the Bipartisan Campaign Reform Act (BCRA) will permit both parties to raise sufficient money to support their operations and candidates. The argument that the BCRA "defunds" the parties and thereby cripples them is incorrect. Nothing in this legislation damages the operational integrity of the parties if the legislation survives in its entirety. Should the provisions limiting independent issue ads within sixty days of a general election and thirty days of a primary be struck, it would reduce the role and significance of

of soft and hard money. They were placed in strategic markets using a combination of hard and soft money.

16. There is nothing inherently wrong or bad about state and national party cooperation of this type. Indeed that is what parties are supposed to do. If there is a difficulty with this arrangement, it is because there is so much money involved which must be raised in large amounts thus giving those who contribute these large amounts the same advantages described in the paragraphs above.
17. As noted, I served as Chairman of the South Carolina Democratic Party. Based on that experience, I know first-hand that various activities such as get-out-the-vote campaigns, voter identification efforts, voter registration drives, and advertisements that mention federal as well as state candidates have the effect of promoting candidates for federal office as well as candidates for state office. Soft money mixed with hard money gives parties expanded capabilities. Eliminating soft money, however, does not mean that these joint efforts will have to be eliminated. They will have to be done more efficiently with lower overall expenditures with the assistance of local, grassroots volunteers.
18. In conclusion, contributions of large sums of money to parties and campaigns undermine the integrity of the political process, create inequities in the system, and produce a privileged class of political actors. Sound public policy dictates that these large contributions be eliminated from the American political system.
19. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct

Donald L. Fowler
Hon. Donald L. Fowler

Executed this 1st day of October, 2002.