
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SENATOR MITCH McCONNELL,)	
<i>et al.</i> ,)	
)	
Plaintiffs,)	Civil Action No.
)	02-0582 (CKK, KLH, RJL)
v.)	Consolidated Actions
)	
FEDERAL ELECTION COMMISSION,)	
<i>et al.</i> ,)	DECLARATION
)	
Defendants.)	
)	

DECLARATION OF ROBERT W. HICKMOTT

1. My name is Robert W. Hickmott.

 2. In 1980, during President Carter's re-election campaign, I worked at the Democratic National Committee ("DNC") as an Associate Finance Director. Following the general election, I became the Executive Director of a new DNC entity, the Democratic Business Council ("DBC"), where I served until 1983. During 1985-86, I served as National Finance Director for then-Congressman Timothy Wirth's Senate campaign, and from 1987 until early 1989, on Senator Wirth's Senate staff. After that, I was in private practice as an attorney until January 1991, when I joined the Democratic Senatorial Campaign Committee ("DSCC") as Deputy Executive Director. Starting in 1993, I worked for four years as the Associate Administrator for Congressional Affairs at the United States Environmental Protection Agency, then for two
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years as a counselor to then-Secretary Andrew Cuomo at the United States Department of Housing and Urban Development ("HUD").

3. In 1999, I left HUD and joined The Smith-Free Group ("Smith-Free"), a small governmental affairs firm located in Washington, D.C. I am currently a Senior Vice President at Smith-Free and am one of the six principals in the firm. I am a regular contributor to candidates for Congress, for President, and the national party committees, primarily to Democratic candidates, but also to several Republicans, as well. In the 1999-2000 cycle, I contributed just over \$7,000 and in this cycle, 2001-2002, I have contributed a little more than \$10,000.
4. I provided a declaration in *Federal Election Commission v. Colorado Republican Federal Campaign Committee*, 41 F. Supp. 2d 1197 (D. Colo. 1999), aff'd, 213 F.3d 1221 (10th Cir. 2000), rev'd, 533 U.S. 431 (2001) ("Colorado II"). See 533 U.S. at 458. In that declaration, I detailed many of my experiences at the DNC and DSCC, including the raising and spending of funds regulated under the Federal Election Campaign Act, commonly referred to as "hard money," including coordinated expenditures on behalf of Democratic Senate candidates permitted by 2 U.S.C. 441a(d). The Colorado II declaration is reproduced as Exhibit A to this declaration. I reaffirm that those statements are true and correct.
5. When I was at the DNC, I started the DBC, which was a fundraising program designed to attract donations for the DNC from business, including corporations. At that time, the DBC was the most expensive of the DNC's various fundraising programs, and it accepted both hard money and funds not regulated under the Federal Election Campaign Act ("soft money") in the form of direct donations from corporations. Paragraphs 4 and 5 of my prior declaration detail the level of giving involved in becoming a member of the DBC, and what members of the DBC received in return for their donations. In my experience, corporations gave

corporate money to the DBC in the early 1980s because it allowed them to donate to the

DNC while keeping their PAC money for other activities, such as donating directly to candidates. The DNC, in turn, spent this soft money on the national convention, infrastructure, and mid-term conferences, such as the one in Philadelphia in 1982.

6. In contrast, when I was at the DSCC in 1991-92, the DSCC rarely raised or spent soft money, and in fact we frequently turned away offers of corporate money. Our legal counsel at the DSCC was very strict about what soft money could be used for, and there was also a sense among the Senators at that time that soft money was somehow tainted. The DSCC's aversion to soft money went back at least to 1985-86, when Senator George Mitchell was the Chair of the DSCC. To the extent that the DSCC spent soft money in 1991-92, it was for infrastructure, convention expenses, and an occasional state party donation that the DSCC would make at the request of one of the other national party committees. I know that the DSCC's practice subsequently changed, that it does both raise and spend soft money now, and in my view that came about in part because the Democratic Senators recognized that they were getting their clocks cleaned by the Republicans as a result of the soft money the Republicans were raising and spending.
7. I believe that parties can function effectively without soft money so long as they, and other players in the political process, such as groups that run "issue ads." play by essentially the same set of rules. The DSCC rarely used soft money when I worked there, and we managed fine. The bottom line for the DSCC was to win Senate seats, and we were successful at that without using soft money.
8. As both a contributor to candidates and parties, and as a lobbyist who advises clients about political spending, I am personally aware of the fundraising practices of federal candidates.

Once you've helped a federal candidate by contributing hard money to his or her campaign,

you are sometimes asked to do more for the candidate by making donations of hard and/or soft money to the national party committees, the relevant state party (assuming it can accept corporate contributions), or an outside group that is planning on doing an independent expenditure or issue advertisement to help the candidate's campaign. These types of requests typically come from staff at the national party committees, the campaign staff of the candidate, the candidate's fundraising staff, or former staff members of the candidate's congressional office, but they also sometimes comes from a Member of Congress or his or her chief of staff (calling from somewhere other than a government office). Regardless of the precise person who makes the request, these solicitations almost always involve an incumbent Member of Congress rather than a challenger. As a result, there are multiple avenues for a person or group that has the financial resources to assist a federal candidate financially in his or her election effort, both with hard and soft money.

9. I also know that corporations, labor unions and individuals make soft money contributions to national political parties and federal candidate PACs, including joint fundraising committees, to influence the legislative process for their business purposes. It helps donors influence the outcome of a race, it helps them curry favor with a specific candidate, it helps them curry favor with the congressional leadership and it helps them curry favor with the chairs of the national party committees. It is a way to build relationships and friendships and pursue the donors' business agendas. In fact, when one of my clients is going to make a donation to a federal candidate or party, hard or soft money, I advise them on the manner in which they should do that. I tell them not to just send the check to the party committee, for example, to the young staff member who is collecting the checks. Instead I tell my clients that they

should personally give the money to a Member of Congress who then can give the money to
the Chair of the party committee, who will in turn make sure that the check reaches the young
staff member. That way the donor, with one check, gets "chits" with multiple Members of
Congress.

10. As a lobbyist and a contributor, during a federal election year I receive faxes, e-mails and
telephone calls frequently from Members of Congress, their fundraising and campaign staff,
party committees and fellow lobbyists requesting that I donate money for campaigns, and the
frequency increases as the general election draws nearer. Although many of these requests
are for hard money contributions, I sometimes also receive requests for soft money. The soft
money requests typically involve an event of some sort, such as the Warner/Nickles Golf
Tournament, where for a soft money contribution of \$10,000 or more you can go play golf
with those Senators and some of their Republican colleagues. Another example is the
Nantucket weekend organized by the DSCC, one of its premiere events. At the Nantucket
weekend, which costs either \$50,000 or \$100,000 these days, a donor can meet with a large
number of Democratic Senators in the course of one weekend. As the general election draws
nearer, I also receive requests from the same types of people for soft money for issue ads or
for get-out-the-vote efforts. As of August 2002, I was receiving at least 12 fundraising
requests per day, and including those addressed to my partners, these solicitations constitute
about half of the total amount of phone calls and faxes our office receives. Attached as
Exhibit B are true and correct copies of a number of the fundraising requests that were
received by me or someone else at my firm over a two week period between Labor Day and
September 17, 2002.

11. I also advise clients who seek advice about how to spend soft money. Typically I look at their business interests, try to determine with which Members they should maintain relationships, and then find out from the campaign staff of those members whether their candidate will take soft money. In some cases they do, usually through a state political party or a leadership or joint fundraising political committee, and in some cases they don't. It frequently isn't particularly important to the donor precisely what the money is going to be used for -- if a Member of Congress or member of his or her campaign staff is telling you that he or she needs money for the state party, you assume that somehow the Member is going to benefit.

12. Based on my experience at the DNC and DSCC, and because of the reporting I must do as a registered lobbyist before Congress, I also do not believe that it will be burdensome for a group or individual to file reports of its receipts and disbursements with the Federal Election Commission ("FEC"). Although filing properly with the Commission may require some additional training, and certainly requires recordkeeping and other administrative tasks, thousands and thousands of PACs and other political committees have successfully registered and reported to the FEC over the course of the past 25 years.

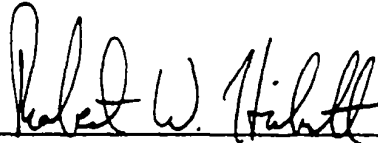
13. Soft money donations can be invaluable to legislative efforts although they are not in my view, always essential. As with hard money, soft money donations are more like a very useful tool in the toolbox that you can use to help achieve your legislative goals. I recommend that clients make political donations only on a case-by-case basis.

14. I support the soft money ban that is part of the new campaign finance reform law because I think that soft money, given that it can be donated in unlimited amounts, is fundamentally unfair because it cannot be matched by hard money. There are also instances where you can

~~get access for \$50,000 or \$100,000 that is unheard of with the smaller, hard money~~

contributions provided for under the original campaign finance law. I also think that corporate and union soft money is undemocratic, as compared to hard money, such as PAC money, because the shareholders and the union members, who are the true sources of the corporate and union funds, have no say in whether, or how, that money is spent.

15. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.



Robert W. Hickmott

Executed on this 3rd day of October, 2002