

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
SENATOR MITCH McCONNELL, <u>et al.</u> ,)	
)	
Plaintiffs,)	Civil Action No. 02-0582 (CKK, KLH, RJL)
)	
v.)	
)	<u>CONSOLIDATED ACTIONS</u>
FEDERAL ELECTION COMMISSION, <u>et al.</u> ,)	
)	
Defendants.)	
_____)	

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FEDERAL ELECTION
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COUNSEL
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DECLARATION OF WADE RANDETT

1. My name is Wade Randlett.
2. I am Chief Executive Officer of Dashboard Technology ("Dashboard"), a World Wide Web technology consulting firm based in San Francisco, California. Dashboard specializes in the design, implementation and support of software that displays customized information for specific audiences. Prior to founding Dashboard in 2001, I served on the management teams of two other software companies: Sigma Storage from 2000 to 2001 and Red Gorilla from 1999 to 2000. From 1996 to 1999, I was the Democratic political director at the Technology Network, also known as TechNet, a Palo Alto-based non-profit corporation and political service organization which I co-founded in 1996. Prior to starting TechNet, I spent many years as a political fundraiser and general political consultant, working primarily in the Silicon Valley area of Northern California, but also throughout California and to some extent in major metropolitan areas in other parts of the nation.

3. From the 1996 election cycle through the 2000 cycle, I raised seven-digit sums in both federal funds ("hard money") and non-federal funds ("soft money") for candidates and national party committees. During this same period, I hosted or helped organize over 100 fundraising events featuring federal candidates or office holders. Many of these events were attended by Democrats who held senior government positions, such as then-President Bill Clinton and then-Vice President Al Gore. When I was at TechNet, my Republican counterparts there arranged similar events involving senior Republicans, such as then-Governor George W. Bush.

4. In my experience, hard money contributions tend to differ from soft money donations in ways that are not just quantitative, but qualitative. Most hard money is given for reasons that are fundamentally personal. Even PAC contributions originate with individuals. Hard money contributors tend to support only candidates whom they know, like, and/or are philosophically aligned with in a broad sense. Conservative Republicans don't usually give hard money to liberal Democrats and vice versa. Accordingly, the pitch from the politician raising hard money does not typically focus on a particular piece of legislation, or even a group of bills. Instead, it tends to be broader and more personal.

5. Conversely, many soft money donations are not given for personal or philosophical reasons. They are given by donors with a lot of money who believe they need to invest in federal office holders who can protect or advance specific interests through policy action or inaction. Some soft money donors give \$250,000, \$500,000, or more, year after year, in order to achieve these goals. For most institutional donors, if you're going to put that much money in, you need to see a return, just as though you were investing in a corporation or some other economic venture. And even soft money donors whose primary motives are not financial usually want attention,

visibility, and support on a particular policy issue or set of issues, either from the candidate or office holder who makes the "ask," or from one or more others aligned with the solicitor.

6. National party committees often feel they need to raise a certain amount of soft money for a given election cycle. To reach that overall goal, they may divide up potential donors by geography, affiliated organization, or issue interests. The party committees decide which Members of Congress should contact these potential donors, and these Members then put in a certain amount of call time at the national committee soliciting the money. A Member and a potential donor may be matched because the Member is on a legislative committee in which the donor has a particular interest, whether economic or ideological. For example, Commerce Committee members will call potential donors from an industry with issues before the Committee, and Judiciary Committee members will call donors who have issues there. Members in leadership may also be able to make these calls, since they have a horizontal influence across all committees.

7. Members of Congress raise soft money to help with federal campaigns, not for "party building" activities. In my experience, most federal office holders care little about true party building. The Members and the donors understand that the soft money will be used to help federal candidates win elections.

8. I've been involved in political fundraising long enough to remember when soft money had little value to federal candidates. Ten years ago, a Senator might call a potential donor and the donor would say something like, "I would love to write you a check; I'm a big fan of yours; but I'm federally maxed, so I can't do it. If you like, I could write a soft money check to your state party." And the Senator might say, "Don't bother. The soft money just doesn't do me any good."

9. However, in recent election cycles, Members and national committees have asked soft money donors to write soft money checks to state and national parties solely in order to assist federal campaigns. Most soft money donors don't ask and don't care why the money is going to a particular state party, a party with which they may have no connection. What matters is that the donor has done what the Member asked.

10. Information about what soft money donors have given travels among the Members in different ways. Obviously the Member who solicited the money knows. Members also know who is involved with the various major donor events which they attend, such as retreats, meetings and conference calls. And there is communication among Members about who has made soft money donations and at what level they have given, and this is widely known and understood by the Members and their staff.

11. As a donor with business goals, if you want to enhance your chances of getting your issues paid attention to and favorably reviewed by Members of Congress, bipartisanship is the right way to go. Giving lots of soft money to both sides is the right way to go from the most pragmatic perspective.

12. Conversely, if you're giving a lot of soft money to one side, the other side knows. For many economically-oriented donors, there is a risk in giving to only one side, because the other side may read through FEC reports and have staff or a friendly lobbyist call and indicate that someone with interests before a certain committee has had their contributions to the other side noticed. They'll get a message that basically asks: "Are you sure you want to be giving only to one side? Don't you want to have friends on both sides of the aisle?" If your interests are subject to anger from the other side of the aisle, you need to fear that you may suffer a penalty if you don't give. First of all, it's hard to get attention for your issue if you're not giving. Then,

once you've decided to play the money game, you have to worry about being imbalanced, especially if there's bipartisan control or influence in Washington, which there usually is. In fact, during the 1990's, it became more and more acceptable to call someone, saying you saw he gave to this person, so he should also give to you or the person's opponent. Referring to someone's financial activity in the political arena used to be clearly off limits, and now it's increasingly common.

13. Soft money donors and fundraisers definitely get a special level of access, visibility, and appreciation from Members that is not available to smaller hard money donors, much less the average person. They get a level of attention that a \$1,000 hard money donor never will. Even someone who wrote 25 \$1,000 hard money checks but no soft money is going to get much less attention and appreciation than someone who wrote one large soft money check.

14. The raising and spending of soft money in recent election cycles has distorted the federal political system and the commercial marketplace. Many soft money donations are made in order to advance specific legislative agendas, and they do produce at least appreciation on the part of powerful federal office holders. Based on my observations, much of the business community believes that the federal campaign financing system is broken and needs to be fixed. People in business look for a reasonable, rational system and a level playing field. The current soft money-oriented system does not meet that standard. At the same time, many members of the business community recognize that if they want to influence what happens in Washington, they have to play the soft money game. They are caught in an arms race that is accelerating, but that many feel they cannot afford to leave or speak out against.

15. Soft money fundraising also takes a lot less time and effort than hard money fundraising. Like anyone else, politicians have only 24 hours in a day. As it has become

increasingly valuable for office holders to spend time with people who are writing huge checks, they have allocated more of their time to that. That means they have less time to devote to other things that are part of their jobs, such as talking to their constituents.

16. It would be absurd to claim that the soft money ban will result in all the same soft money donors banding together to finance independent expenditures and that all this money will still have the exact same bad effect it has today. Most of these donations are made because they are solicited. The number of people sitting around trying to figure out how to spend a million dollars in electoral politics, and just getting advice from interest group or national party committee staff on how to do it, is very, very small. The core transaction is an elected official talking to an individual who may write a soft money check in order to receive positive attention for an issue. When you take that act out of the equation, a great deal of the inappropriate influence leaves the system.

17. Without other restrictions, one potential method of evading the national party soft money ban that I would be concerned about would involve a political consultant, working with some level of pre-arrangement with an office holder, say a Senator, and persuading a corporate donor that the Senator wants the donor to run a lot of "issue ads" that will help him or her in a given state. Then some time in the following few months, the donor might get a phone call from the Senator, or be invited to a meeting or small event with the Senator, and be told how much he or she appreciates what they've been doing, but never having to say anything about what they did or what happened with that money. That kind of proxy, "wink and a nod" scenario takes the core soft money transaction as it works today and adds one layer of complexity. But it's not a big layer.

18. In my experience, campaign advertising is meant to leave impressions or feelings about whether to elect a candidate, either positive or negative. Whether the "magic words" of express advocacy are included in the ad has no impact on whether a campaign ad is effective. For example, ads that portray a particular candidate as "for tax increases" or "against social security" are clearly electioneering, regardless of what particular words are used.

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

A handwritten signature in black ink, appearing to read "Wade Randlett", is written over a solid horizontal line.

Wade Randlett

Executed on this 1 day of October, 2002