

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, RJL)
)
)
)

All consolidated cases.

**DECLARATION OF
SENATOR WARREN RUDMAN**

The affiant, having been duly sworn, deposes and says:

1. My name is Warren Rudman.
2. I have worked in politics for much of my life. I have extensive experience as an elected official and as a public citizen with the workings of the electoral process at both the state and the federal level. In particular, I have deep experience with political fundraising, and I know first-hand and from working with colleagues just how beholden elected officials and their parties can become to those who contribute to their campaigns and to their party's coffers.
3. I first held public office in 1970, when I was appointed Attorney General of New Hampshire. In 1980, I was elected to the United States Senate from New Hampshire. I served two terms and retired from the Senate in 1992. While I was a Senator, I served as Vice Chairman of the Senate Select Committee investigating arms transfers to Iran. I was also a member and the Chairman of the Senate Ethics Committee. Since 1992, I have practiced law in Washington, D.C. During that time, I became a founding member of the Concord Coalition, a

non-profit group dedicated to increasing public awareness of national fiscal affairs and was co-chairman of John McCain's presidential campaign. In addition to serving on various Boards of Trustees, I am also member of the Senior Advisory Committee of the Institute of Politics of the John F. Kennedy School of Government at Harvard.

4. As a member of the Senate Select Committee in 1989, I presided over the so-called "Keating Five" hearings. The Committee investigated and reported on aspects of the savings-and-loan scandal. In particular, our report discussed how political contributions to political candidates, national and state parties, and non-profit groups involved in elections, necessitated by the then-current system of campaign finance, created an aura of corruption that called into question the legitimacy of actions taken by certain elected and appointed officials. One of the "Keating Five" was John McCain, who went on to fight for campaign finance reform in a long and powerful crusade that resulted in the passage of the Bipartisan Campaign Finance Act (or "BCRA") in March, 2002. I greatly admire my friend John McCain for learning from the Keating Five incident that even the appearance of impropriety can be damaging to our democracy.

5. No one should have any idyllic illusions about the role of money in politics. By and large, the business world, including corporations and unions, gives money to political parties for a combination of two reasons: they believe that large contributions to a party (or, in some cases, to both major parties) will enable them to gain privileged access to and special influence over elected and appointed government officials so they can affect government decisions in Washington that affect their interests; and they believe that if they decline solicitations for such contributions, elected and appointed officials will ignore their views or, worse, that competing business interests who do make large contributions to the party in question will have an

advantage in influencing legislation or other government decisions. The same is true in the preponderance of cases where wealthy individuals give \$50,000, \$100,000, \$250,000, or even more to political parties in soft money donations.

6. Nor should anyone have illusions about the solicitation side of the process. Much of the soft money raised for political parties is raised by elected officials -- sitting members of the Senate and the House of Representatives. For example, the members of the National Republican Senatorial Committee (as well as the members of the Democratic Senatorial Campaign Committee) who raise large amounts of money are all sitting Senators. These and other elected officials solicit large sums of money from businesses, unions, and wealthy individuals who have legislative matters pending before the Senate and the House. And make no mistake about it, elected officials who raise money for their party committees know exactly why most corporations, unions, and wealthy individuals contribute large sums of money to the party -- they know it is exactly for the reasons outlined in the previous paragraph.

7. Special interests who give large amounts of soft money to political parties do in fact achieve their objectives. They do get special access. Sitting Senators and House Members have limited amounts of time, but they make time available in their schedules to meet with representatives of business and unions and wealthy individuals who gave large sums to their parties. These are not idle chit-chats about the philosophy of democracy. In these meetings, these special interests, often accompanied by lobbyists, press elected officials -- Senators who either raised money from the special interest in question or who benefit directly or indirectly from their contributions to the Senator's party -- to adopt their position on a matter of interest to them. Senators are pressed by their benefactors to introduce legislation, to amend legislation, to block legislation, and to vote on legislation in a certain way. No one says: "We gave money so

... you should do this to help us." No one needs to say it -- it is perfectly understood by all participants in every such meeting.

8. Individuals on both sides of the table recognize that larger donations effectively "purchase" greater benefits for donors. Larger donors receive greater access to elected officials. Some large donors will ask for help with personal causes, such as immigration matters, tax reform, or political appointments. Others attend meetings with elected officials in order to voice their company or industry's concerns with particular legislation and to affect the outcome of the legislation. These are not the requests or expectations of an average taxpayer. Elected officials may not intend to be affected by such access, but the fact is that they receive a disproportionate amount of input and advice from larger, more wealthy contributors. This can skew their judgment. Equally important, the assumption that more money buys more influence gravely affects the public perception of the political process.

9. Large soft money contributions in fact distort the legislative process. They affect what gets done and how it gets done. They affect whom Senators and House members see, whom they spend their time with, what input they get, and -- make no mistake about it -- this money affects outcomes as well.

10. I understand that those who opposed passage of the Bipartisan Campaign Reform Act, and those who now challenge its constitutionality in Court, dare elected officials to point to specific interests of quid pro quo corruption. I think this misses the point altogether. What I described in the preceding paragraphs is inherently, endemically, and hopelessly corrupting. You can't swim in the ocean without getting wet; you can't be part of this system without getting dirty.

11. Almost every day, the press reports on important public issues that are being considered in Congress. Inevitably, the press draws a connection between an outcome and the amount that interested companies have given in soft money. Within just a few days last April two different national stories illustrated this point. On April 4, the *New York Times* ran an article that linked a recent executive order accelerating review of energy-related projects to a proposed energy bill submitted by the American Gas Association, a large donor to the Republican Party. (Attachment A). On April 6, the *Los Angeles Times* ran an article linking new, voluntary OSHA guidelines on ergonomics to large donors who opposed mandatory regulations. (Attachment B). These articles confirm my conclusion that the system is inherently, endemically, and hopelessly corrupting. Even if a Senator is supporting a position that helps an industry for reasons other than that the industry gave millions to his party, it does not appear that way in the public eye.

12. I understand that some people say that contributions to political parties from corporations, unions, and wealthy individuals of \$50,000 or more are not inherently corrupting because they are not given directly to a candidate or his/her campaign committee. This is utter nonsense. The party's involvement does not sterilize the system. Elected officials often raise this money for their parties, sometimes pursuant to fundraising goals party leaders set for them. When party officials raise the money, they offer access to elected officials in return. Elected officials know exactly who the big party contributors are. The parties use soft money to help federal candidates get elected by running so-called "issue ads" funded with soft money in closely contested federal races. The parties also help federal candidates get elected in other ways.

13. The soft money system not only distorts the legislative process, it breeds deep cynicism in the minds of the public. I know this from my own experience in talking to citizens and voters over the years. I also see it reflected in polling results that I review from time to time.

For example, an ABC News/Washington Post Poll run in March 2001 asked the question: "Do you think politicians do special favors for people and groups who give them campaign contributions, or not? If 'Yes,' do you think that happens often or only sometimes." A staggering 80% of the respondents answered "Yes --often." Another 13% answered "Yes -- sometimes." The total is 93%. If I had been a respondent, I would have been part of that 93%. The result of this poll is completely consistent with what I hear from and know about citizen attitudes. That attitude makes no distinction between contributions to candidate campaigns and contributions to political parties.

14. Make no mistake about the implications of this public attitude: when Americans believe overwhelmingly that their public servants are for sale, democracy is challenged at its roots. Kill the roots and you kill the tree.

15. I frequently speak on college campuses around the country. I almost always meet with students and talk about their attitudes toward the government, about the important issues of the day, and about how government deals with those issues. The palpable cynicism I encounter is widespread and deep. Many young people do not have faith in their government or elected officials. They do not think it is important to vote. They say their vote doesn't count because the government is for sale -- elected officials listen to the special interests, not the ordinary voter.

16. I speak frequently at community events as well. Ordinary citizens in large measure share the cynicism of young students, and for the same reasons.

17. The aura of corruption that surrounds our campaign finance system also deters able, qualified people from running for office. Before the Congress passed the BCRA, I tried to recruit a young, successful New Hampshire businessman to run for Congress. He declined,

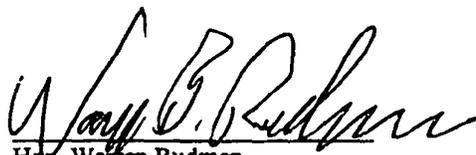
telling me that he was not interested in large part because of the large amounts of both hard and soft money he would have to raise and everything that raising such enormous sums would entail.

18. As noted, I have been deeply involved in many federal election campaigns, and am therefore familiar with campaign advertising in such campaigns. Based on this experience, I believe that broadcast advertising does not need to use so-called "magic words" like "vote for" or "vote against" to be fully effective in supporting a clearly identified candidate. Many, if not most, campaign ads run by parties and by candidates themselves never use such "magic words." It is unnecessary. Usually the goal of an ad is to convey an image about the candidate's personal qualities and his or her views on important issues, or to contrast the candidate with his opponent. The idea is that if potential voters like the candidate and/or like his opinions, they will be inclined to vote for the candidate. Over the years -- and particularly in the last two election campaigns -- I have seen many, many ads that in fact promote the election of a candidate that never say "vote for" the candidate. It is consumer fraud in my view for the parties -- and both parties are guilty of this -- to bombard citizens during the campaign season with broadcast ads about the party's candidates, all the while pretending that those ads are solely about "issues" and are not related to the candidates' campaigns. This conduct too breeds an unhealthy cynicism in the electorate, which generally harms our democracy and which specifically undermines the credibility of the major political parties.

19. To curtail soft-money fundraising and giving, it is necessary to have a comprehensive approach that addresses the use of soft money at the state and local party levels as well as at the national party level. The fact is that much of what state and local parties do helps to elect federal candidates. The national parties know it; the candidates know it; the state and local parties know it. If state and local parties can use soft money for activities that affect

federal elections, then the problem will not be solved at all. The same enormous incentives to raise the money will exist; the same large contributions by corporations, unions, and wealthy individuals will be made; the federal candidates who benefit from state party use of these funds will know exactly whom their benefactors are; the same degree of beholdenness and obligation will arise; the same distortions on the legislative process will occur; and the same public cynicism will erode the foundations of our democracy -- except it will all be worse in the public's mind because a perceived reform was undercut once again by a loophole that allows big money into the system.

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


Hon. Warren Rudman

Executed this 13 day of September, 2002.