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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MITCH MCCONNELL, et al.,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, et al.,

Defendants.

CIVIL ACTION NO.
02-0582 (CKK, KLH, RJL)

All consolidated cases.

AFFIDAVIT OF HOWARD WOLFSON

I, Howard Wolfson, do depose and state as follows:

1. My name is Howard Wolfson. I am currently the Executive Director of the Democratic Congressional Campaign Committee ("DCCC"). I have served in this capacity since approximately April 2001. Through this position, I am familiar with the day-to-day operations of the DCCC.

2. On or about June 3, 2002, the defendants in this case served a subpoena duces tecum on the DCCC pursuant to Rule 45 of the Federal Rules of Civil Procedure. I am submitting this affidavit and its attached exhibits on behalf of the DCCC in lieu of the DCCC's production of documents called for by the subpoena.

3. The DCCC is a Democratic political committee established and maintained by a national political party as defined and used by 11 C.F.R. § 110.2(c)(2)(ii).

4. The members of the DCCC are the Speaker or Democratic Leader of the United States House of Representatives, as the case may be; one Democratic Member of the United States House of Representatives from each state having Democratic representation in the House; the Resident Commissioner from Puerto Rico, if a Democrat; the Delegates from

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American Samoa, the District of Columbia, Guam and the Virgin Islands, if Democrats; and eight additional House Members appointed by the Speaker or Democratic Leader of the United States House of Representatives, as the case may be.

5. The chair of the DCCC is nominated by the Speaker or Democratic Leader of the House, as the case may be, and elected by the Democratic Caucus of the United States House of Representatives. From time to time, Democratic House Members have served in other DCCC offices, such as Board Chair.

[C]¹6. The DCCC's primary function is to aid the election of Democratic House candidates and otherwise support the goals of the Democratic Party. The DCCC aids and encourages the election of Democratic House candidates by, among other things, contributing money to Democratic House candidates; making expenditures on behalf of Democratic House candidates; recruiting Democratic House candidates; providing campaign services to Democratic House candidates; advising Democratic House candidates; and supporting the production and dissemination of general public communications that promote the Democratic Party's position on issues of public concern and create a favorable political environment for Democratic House candidates (hereinafter referred to as "issue advocacy communications"). The DCCC also conducts an active program of support for nonfederal electoral candidates and supports other Democratic party building activities at the state and local level.

7. The DCCC maintains two affiliated political committees with the Federal Election Commission ("FEC") to engage in its normal day-to-day operations. One is called "Democratic Congressional Campaign Committee-Contributions," into which it principally collects receipts. The other is called "Democratic Congressional Campaign Committee-Expenditures," from which it principally makes disbursements.

¹ Paragraphs in this affidavit designated with [C] are considered "Confidential" under the Protective Order entered by the Court on August 12, 2002. Paragraphs in this affidavit designated with [A] are considered "Attorneys Only" under the Protective Order.

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[C]12. DCCC employees have ongoing contact with the officers and staff of Democratic state political parties. The nature of these contacts vary, but include seeking information from the state party regarding political developments in the state; seeking and providing information about candidate recruitment; providing advice to the state party in its activities; and seeking the cooperation and assistance of the state party in the development and implementation of programs valued by the DCCC that benefit Democratic candidates for federal, state and local office, such as get-out-the-vote and generic party efforts undertaken on

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behalf of the Democratic ticket (commonly referred to as "coordinated campaigns") and issue advocacy communications.

13. The DCCC maintains a series of federal accounts, into which it deposits funds consistent with the source restrictions and contribution limits of the Federal Election Campaign Act, as amended, 2 U.S.C. § 431 et seq. (2002) ("the Act"). From these accounts, the DCCC makes all its "contributions" and "expenditures," as those terms are defined and used by the Act. The contents of these accounts are sometimes colloquially referred to as "hard money."

14. The DCCC maintains a series of nonfederal accounts, into which it deposits funds inconsistent with the Act's source restrictions or contribution limits. From these accounts, the DCCC disburses funds to candidates for nonfederal office; to nonfederal accounts of state and national political party committees; and on some occasions to entities other than federally registered political committees. The DCCC also transfers funds from these accounts to its federal accounts to defray the nonfederal share of disbursements affecting both federal and nonfederal elections, as prescribed by 11 C.F.R. § 106.5. The contents of these accounts are sometimes colloquially referred to as "soft money."

15. To ensure compliance with applicable state law, the DCCC segregates its nonfederal funds according to the source of funds received. For example, it maintains separate nonfederal accounts for corporate treasury funds, labor treasury funds, funds donated by individuals, funds donated by federally registered political committees in excess of federal limits, and funds donated by other sources. In some instances, applicable state law may require the DCCC to maintain a nonfederal account specifically for activity in a particular state. Activity in each of these accounts is disclosed on reports filed by the DCCC with the FEC.

16. The DCCC also maintains a building fund into which it deposits funds inconsistent with the Act's source restrictions or contribution limits. The DCCC disburses

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funds from this account to defray costs incurred for the construction and purchase of its office facility.

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18. The DCCC discloses information to the FEC about each person that donates an aggregate amount exceeding \$200 during a calendar year to its federal accounts, its nonfederal accounts and its building fund, respectively. This information includes, but is not limited to, the person's name and address, and the date of receipt and amount of each particular donation.

19. The DCCC discloses information to the FEC about each person to which it makes disbursements in an aggregate amount exceeding \$200 in a calendar year from its federal accounts, its nonfederal accounts and its building fund, respectively. This information includes the person's name and address; and the date, amount and purpose of each particular disbursement.

20. The DCCC raises funds in a variety of ways to support its organizational purposes and functions.

[A]21. The DCCC directs its efforts to raising funds generally without regard to their type, while preferring to raise federal funds. Usually, when seeking funds from major donors, DCCC Members and staff solicit federal and nonfederal funds simultaneously. Most DCCC fundraising events are designed to raise both federal and nonfederal funds. When donors have reached their federal contribution limit, the DCCC frequently encourages them to make additional donations to the DCCC's nonfederal account.

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[A]28. DCCC fundraising employees assist Democratic House Members and Democratic House candidates in raising funds for the DCCC. For example, DCCC

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fundraising employees identify prospective donors for Democratic House Members and Democratic House candidates, and provide information that might be useful in the course of a solicitation. Examples of such information are attached at Tab A.

[A]29. Similarly, DCCC fundraising employees prepare letters to be signed by Democratic House Members and Democratic House candidates, thanking individuals for their donations or requesting support. Examples of such letters are attached at Tab B.

[A]30. The donors whom Democratic House Members contact on behalf of the DCCC are selected in a number of ways. Principally, they are selected based on their previous personal or political relationships with Democratic House Members. For example, the DCCC sometimes urges a Democratic House Member to contact a particular donor because that donor had supported the Member's previous campaigns, and thus might be likely to respond favorably to an appeal by that Member to support the DCCC. Similarly, the DCCC sometimes urges a Democratic House Member to contact a particular donor from that Member's home state. House Members sometimes request those who have made the maximum contributions to their campaigns to contribute to the DCCC.

[A]31. Sometimes, the DCCC urges Democratic House Members to contact particular donors because of shared public policy views. For example, the DCCC has sought and received assistance from particular Democratic House Members in fundraising from the labor community, because those Members had a strong public record of support for labor.

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[A]34. The DCCC relies principally on Democratic House Members to raise funds for its federal and nonfederal accounts.

[A]35. On some occasions, the DCCC and its leadership request Democratic House Members to raise funds in specified amounts, or to devote specified periods of time to fundraising. However, the amount of time each Member spends raising funds for the DCCC varies from Member to Member, with the chair and the Democratic Leader normally devoting the largest portions of time.

[A]36. The DCCC uses no formal credit or tally program to encourage fundraising by Democratic House Members or Democratic House candidates. However, the DCCC advises Democratic House Members of the amounts they have raised for the DCCC, ascribing particular contributions to the fundraising efforts of the Member in question.

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40. The most common method of joint fundraising is for the DCCC and the other joint fundraising participants to form a separate joint fundraising committee under FEC regulations. A joint fundraising committee collects and deposits contributions, pays related expenses, allocates proceeds and expenses to the participants, keeps required records, and discloses overall joint fundraising activity to the FEC.

41. The DCCC and the other participants in a joint fundraising committee agree to a formula for allocating proceeds and expenses. The formula ensures that each participant receives only those contributions that fall within its own source restrictions and contribution limits. It also ensures that each participant pays a share of the joint fundraising expenses that reflects the percentage it receives of the total funds raised.

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an individual contribution will be allocated to the DCCC's nonfederal account, as will the entirety of any contribution from a federally prohibited source.

43. The DCCC and the other participants in a joint fundraising committee sign a written agreement naming the joint fundraising committee as their fundraising representative and stating the allocation formula. A copy of such a written agreement is attached at Tab F.

44. A joint fundraising committee establishes separate bank accounts for joint fundraising receipts and disbursements. Each participant amends its statement of organization on file with the FEC to identify the accounts as among its designated depositories. A joint fundraising committee maintains federal accounts to accept funds consistent with the Act's source restrictions and contribution limits, and nonfederal accounts to accept other funds.

45. The joint fundraising committee notifies the public of the allocation formula in its solicitations. It also notifies donors of the right, notwithstanding the allocation formula, to designate any portion of a contribution to any one participant, to the extent permitted by law. Finally, it notifies donors that the formula may change if they make a contribution that would exceed the amount that could be received by any one participant. Copies of communications that contain such notices are attached at Tab G.

46. The joint fundraising committee screens contributions and keeps records to ensure that the contributions received comply with applicable source restrictions and contribution limits. The participants report the proceeds allocated to them, itemizing each separate contribution. Expenses associated with the joint fundraiser are disclosed by the joint fundraising committee, allocated to each participant according to the formula, and are normally deducted from each participant's share of the proceeds.

47. The DCCC retains sole discretion over the use of funds, federal or nonfederal, distributed to it through joint fundraising. Similarly, the DCCC understands that the political committees and other organizations with which it participates in joint fundraising retain sole discretion over the spending of the funds they receive.

[A]48.

49. The DCCC hosts several different types of events to motivate persons to donate funds. These events are often attended by Democratic House Members, Democratic House candidates, other Democratic federal officeholders, Democratic Cabinet officials, and other celebrities who neither seek nor hold federal office.

50. At DCCC fundraising events, individuals who raise funds for or donate funds to the DCCC, including representatives of corporations, associations and labor unions, often interact directly with Democratic House Members, Democratic House candidates and other featured attendees. The nature and types of these interactions vary from event to event. Individuals who attend these events and who are so inclined may take the opportunity to discuss policy matters with House Members and candidates.

51. For example, donors and fundraisers sometimes attend receptions along with one or more Democratic House Members, followed by a dinner, and then by remarks from a Democratic House Member who serves as the featured guest. In these circumstances, donors and fundraisers have the opportunity to speak with Democratic House Members. Examples of materials related to such events are attached at Tab H.

52. DCCC fundraising events sometimes involve retreats in which a series of events are scheduled for donors, fundraisers, Democratic House Members, Democratic House candidates, and other featured guests. At such events, donors and fundraisers sometimes participate in group discussions with Democratic House Members, Democratic House candidates, and other featured guests. At such events, donors and fundraisers also sometimes engage in recreational activities with Democratic House Members, Democratic House candidates, and other featured guests. Examples of materials related to such events are attached at Tab I.

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local political party committees, to receive financial assistance from the DCCC's nonfederal program. These recommendations are made for different reasons. While the DCCC may consider these recommendations in weighing its own plans, it retains sole discretion over the manner in which it spends its funds.

58. The DCCC makes donations from its nonfederal account to candidates for state and local office. Examples of letters that have accompanied such donations are attached at Tab L.

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60. The DCCC supports the activities of Democratic state political party committees in several ways.

61. The DCCC transfers funds from its federal account to the federal accounts of Democratic state political party committees.

62. The DCCC transfers funds from its nonfederal accounts to the nonfederal accounts of Democratic state political party committees in the manner permitted by applicable state law. Examples of letters that have accompanied such transfers in the past are attached at Tab M.

63. The DCCC also supports Democratic state political party committees in producing and disseminating issue advocacy communications. In my experience, the large majority of the DCCC's nonfederal transfers to state and local party committees have been to support the nonfederal share of issue advocacy communications. Frequently, these communications refer to Democratic House candidates or their Republican opponents, while not expressly advocating any candidate's election or defeat. Examples of scripts for such communications are attached at Tab N.

64. In addition to supporting issue advocacy communications, the DCCC transfers federal and nonfederal funds to state and/or local party committees for voter identification, voter registration and get-out-the-vote efforts. These efforts have a significant effect on the election of federal candidates.

[A]65. In deciding whether to support a particular state party committee in developing issue advocacy communications, the DCCC evaluates several different criteria. These include, but are not limited to, the DCCC's ability to provide nonfederal funds to the committee under applicable state law; the extent to which the audience in the state is likely to be receptive to a Democratic message; and whether such communications would be consistent with the political interests of the Democratic Party, including creating a favorable electoral environment for Democratic House candidates.

[A]66. When the DCCC transfers funds to state party committees, including nonfederal funds, for the purpose of disseminating issue advocacy communications, it first develops the communications in consultation with media consultants, who are generally retained by the state party at the request or suggestion of the DCCC, and then provides the communications to the state party, together with the necessary funds to distribute them locally. State parties may, but generally do not, reject the communications.

[A]67. The DCCC participates in the creative development of issue advocacy communications it supports and works with consultants to determine their content, timing and placement. For example, the DCCC's political staff expresses views on questions of

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communications strategy. The DCCC's research staff reviews scripts of proposed communications in advance for accuracy, and the DCCC's legal counsel reviews them for legal compliance. The DCCC does not permit issue advocacy communications it supports to be recorded or produced until they have been approved by DCCC counsel and DCCC senior employees.

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[A]70. Currently the DCCC requires issue advocacy communications it supports to be controlled by the party. During my tenure at the DCCC, it has not supported the development of issue advocacy communications by media consultants also retained by the Democratic House candidates to whom, or to whose Republican opponents, the communications refer.

[A]71. A large majority of issue advocacy communications supported by the DCCC refer to Democratic House candidates in the states in which the communications are distributed, or to those candidates' Republican opponents. DCCC staff inform Democratic

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House candidates or those acting on their behalf of the DCCC's support for issue advocacy communications in their states.

72. The DCCC sometimes assists the DNC and DSCC in order to promote the interests of the Democratic Party as a whole, notwithstanding the fact that the DCCC remains a separate organization with discrete political objectives.

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74. The DCCC sometimes donates nonfederal funds to one of the other national political party committees.

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successful public record and/or professional background; his or her potential abilities as a campaigner; his or her position on issues of public concern; the contrast that he or she would present with his or her likely Republican opponent; and the apparent ability of the candidate and his or her likely opponent to raise funds, including personal funds.

79. The DCCC hires employees with a variety of previous work experiences. In some instances, individuals work for the DCCC after having served on the campaign staff of a Democratic candidate for public office.

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81. The DCCC sometimes makes independent expenditures in House races, and in some cases to influence elections in which it has also made coordinated expenditures.

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[A]83.

FURTHER AFFIANT SAYETH NOT.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 12, 2002.



Howard Wolfson