

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

Senator Mitch McConnell, et al.,)	
)	
)	
Plaintiffs,)	Civil Action No. 02-0582
)	(CKK, KLH, RJL)
v.)	
)	<i>All Consolidated Cases</i>
)	
Federal Election Commission, et. al.,)	
)	
Defendants.)	
)	
)	

DECLARATION OF AL CARDENAS

1. My name is Al Cardenas. I am the Chairman of the Republican Party of Florida. I submit this Declaration as a fact witness on the role of state parties in the American political system, particularly concerning their direct aid to candidates for federal and state office, the party building programs they conduct such as voter registration, identification, contact and turnout, and the fundraising they undertake to be able to run these programs.

2. I am serving in my second term as Chairman of the Republican Party of Florida ("RPOF" or "State Party"), the largest state political party in the country. I was first elected in January, 1999, and was re-elected in January, 2001. Prior to my service as chairman, I served three consecutive terms as Republican Party of Florida Vice-Chairman, from January 1993 – January 1999. As Chairman of the Republican Party of Florida, I serve as a member of the Republican National Committee ("RNC"). By appointment of the chairman, I am on the Executive Committee, the RNC's highest policy-making board. I have been active in Republican politics for more than 25

years, and have represented the State of Florida at every Republican National Convention since 1976. After Ronald Reagan's successful presidential campaign in 1980, the President-elect appointed me to his transition team, responsible for the transition of the U. S. Department of Commerce. President Reagan also appointed me to chair the President's Commission on Small and Minority Business Affairs and later as Special Ambassador to St. Kitts-Nevis upon that nation's independence. President George H. W. Bush appointed me to the Board of Directors of the Federal National Mortgage Association. I also served on the President's Trade Policy Commission. I am a partner in the statewide law firm of Tew Cardenas Rebak Kellogg Lehman DeMaria Tague, Raymond & Levine, LLP. I hold a law degree from Seton Hall University and am admitted to practice before the United States Supreme Court.

3. According to Article IV, Section 2A of the Constitution of the Republican Party of Florida, the duties of the Chairman are as follows: "The State Chairman shall preside at all organizational, annual, or special meetings of the State Committee and of the Executive Board; he shall have general supervision over the affairs of the State Committee and over the other officers; he shall perform all such other duties and shall have all such other rights as are conferred or imposed upon him from time to time by Florida Statutes." My duties include the overall responsibility for the administration, fundraising and campaign operations of the Republican Party of Florida, which includes a State Legislative Campaign operation for both the State House and State Senate, and to provide support for all Republican candidates on the federal, state and local levels.

4. The Republican Party of Florida exists to advance the campaigns of Republican candidates for federal, state and local office, as well as the Republican Party's overall legislative agenda in Washington, D.C., Tallahassee and nationwide. The Republican Party of Florida is an unincorporated association existing under the laws of Florida and 2 U.S.C. 431(15). It is qualified as a Section 527 political committee under the Internal Revenue Code. As a Republican state party, the

Republican Party of Florida is part of the RNC, an unincorporated association that is a national political party committee under 2 U.S.C. 431(14). By virtue of the RNC Rule 1, all state chairs, including myself, are automatically members of the RNC.

5. To accomplish its goals, the State Party's activities fall into three categories: direct contributions to federal candidates under federal law and state candidates under the laws passed by the Florida Legislature; party building programs such as voter registration, voter identification, voter contact and voter turnout; and advocating Republican positions on issues of public importance, primarily through the airing of so-called "issue ads" discussing the positions of elected public officials and community leaders. I have observed that the Democratic Party in Florida operates in a similar fashion.

6. Because they support both federal and state candidates, state political parties now pay for these various activities with a combination of federal (also called "hard dollars") and state (also called "soft" or "non-federal" dollars) monies as prescribed by Federal and Florida law. The rules for Federal candidates are set by the Federal Election Campaign Act of 1976, as amended (the "Act"), and for the Florida candidates by the laws passed by the elected members of our legislature and signed by the Governor. Under current law, state parties pay for joint Federal-State programs with a combination of federal and state dollars, according to a formula established by federal regulations which are based upon either the ratio of Federal to State candidates on the ballot (ballot composition method) or on the time and space allocated to various Federal and State candidates on a printed piece or in a script (time/space method).

7. In order to comply with both the Federal and State rules, the Republican Party of Florida maintains a federal account and a state account. This allows the State Party to segregate the money legal under the Act from the money legal under the laws of Florida. State political parties are not limited under Florida laws in amounts or sources of contributions (except for the federal

prohibitions on contributions from foreign sources and national banks) . We pay for joint activity benefiting our Federal and State candidates from an allocation account or the federal account, as permitted by the Act.

8. The Republican Party of Florida publicly reports all contributions we receive and all expenditures we make to both the Federal Election Commission and the Florida Division of Elections. We file our federal activity quarterly with the FEC and our state activity quarterly with the Florida Division of Elections. In addition, as a section 527 political committee, the Republican Party of Florida also registered its non-federal account by filing Form 8871 with the Internal Revenue Service. The Republican Party of Florida also files annual tax returns on Form 1120-POL. The information disclosed on Form 990 provides a portrait of the Republican Party of Florida's organization and finances and requires the itemized disclosure of individuals and entities that donate \$5,000 and more to our Party.

9. In the 1995-96 election cycle, we raised \$9,756,158.54 in the federal account and \$13,836,193.41 in the state account. In the 1997-98 cycle, we raised \$4,873,870.44 in the federal account and \$29,579,461.07 in the state account. In the 1999-2000 cycle, we raised \$14,418,377.19 in the federal account and \$39,018,691.84 in the state account. Of that amount, \$20,836,089.30 came in the form of transfers from National committees and \$122,000.00 came as transfers from other state parties.

10. As a 25-year political activist, I have worked for the Republican Party of Florida and am familiar with its functions and programs. I have also observed the activities of Special Interest Groups in my state, their own attempts to influence the political process, the rules (or lack thereof) that govern their participation, and the apparent growth of their efforts.

11. I am also familiar with the recently enacted BCRA and the changes it will bring to the activities and programs of the Republican Party of Florida and other state parties around the United States.

12. The RPOF holds fundraising events, sends direct mail appeals and conducts a telemarketing program to raise resource monies for our programs and mission. Federal candidates, officeholders and national committee officials participate in these events and in the direct mail and telemarketing appeals by attending events, lending their names to invitations, lending their names to direct mail and telemarketing appeals, and by personally soliciting donations for our programs and mission.

13. Numerous special interests groups in Florida also funded candidates, conducted voter registration/identification/contact/turnout programs and disseminated issue ads in these election cycles including the Coalition for Family Safety, the Alliance for Florida's Economy, People for a Better Florida, among others. I do not know how much they raised and spent, or from what sources, because Special Interest Groups are not required to report their activities and they may raise and spend money from any source in any amount.

14. It is my understanding that the Bipartisan Campaign Reform Act of 2002 ("BCRA") would federalize all our state party activities that aid both the Federal and State candidates on the ticket, by stopping us from using money legal under Florida law to pay for our State candidates' share of any program that mentioned a specific Federal candidate or urged support for the generic ticket. For example, under the current Act, a slate mailing urging support for our Presidential candidate, gubernatorial candidate, attorney-general candidate and a state legislative candidate would be paid for 25 percent from the Federal account and 75 percent from the State account since it mentions one federal and three state candidates; under BCRA, that piece would have to be paid for entirely from the Federal account because it mentions a specific Federal candidate.

15. It is my understanding that under BCRA we will have to allocate any message that includes a generic "vote Republican" call between the Federal account and the so-called Levin account, which consists of contributions of up to \$10,000 if permissible under state law (although Florida law permits unlimited contributions to the State Party). It is my opinion as a State Chair that generic messages (as opposed to those that mention of a specific candidate) in voter registration/identification/contact/turnout programs are of minimal impact and value. For that reason, I do not believe that the Levin accounts will be used to any significant degree by state political parties, and will not permit us to participate to as great a degree in voter registration/identification/contact/turnout programs as Special Interest Groups.

16. I have heard BCRA proponents maintain that the ban on state parties using funds legal under state law to pay for State candidates' share of ticket-wide activities will somehow reduce the influence of Special Interest Groups. In my professional judgment, that is naïve and wrong. The simple fact is that Special Interest Groups, using precisely the same funds that my state party is banned from using under BCRA, will be able to conduct the very same activities. The ability of my party committee and other political party committees to participate in the political process will be drastically weakened for the simple reason that parties will have less funds. The state parties will have less funds under BCRA because federal officeholders and candidates will be prohibited from raising money for us and the national political parties will no longer be able to raise money legal under our state laws that they can transfer to us or to direct donors to the state parties' non-federal accounts. The Special Interest Groups will fill the void caused by this reduction in Political Party activity since they will be able to conduct the same activities but without having to report the unlimited contributions they will be able to raise from any source and spend without limit.

17. Based on my experience, I believe that once the ability of the political parties to aid their candidates is reduced over time by BCRA, and the Special Interest Groups fill the void using

unreported money in any amount from any source to do the same activities that the political parties now do, the legislative process will suffer. Elected officials will become beholden to the Special Interest Groups that elected them, rather than to the broad-based political parties. This will lead to a greater number of single interest officeholders and candidates than is the case now.

18. The argument by BCRA proponents that State Parties will still be able to conduct voter registration/identification/contact/turnout programs misses the point, in my judgment. The scale of the political parties' programs will be dramatically reduced by BCRA because the parties will have less funds available, and in any event will have far fewer available resources than Special Interest Groups who will be able to use unlimited, unreported "soft money" from any source to conduct precisely the same activities. The BCRA proponents' argument is like saying someone living in Florida is free to drive to California whenever and however they wish – but they only have one tank of gasoline to do it.

19. Among the programs the RPOF undertakes is the dissemination of issue ads on behalf of our federal and state candidates. Since 1996, the RPOF has run issue ads to help define the Party positions on issues of public importance and to assist our officeholders and candidates in framing the issues environment. These messages – which do not advocate the election or defeat of any candidate but do discuss the positions of elected public officials and community leaders on a variety of issues. Since the ads present the position and agenda of the Party, and therefore aid all officeholders and candidates on both the state and federal levels, they are paid for with a combination of Federal and State dollars as determined by the Party's overhead allocation formula which, in turn, is based on the ballot composition for that election cycle. Because these messages often involve issues that are important to the Republican Party nationwide, the national political party committees transfers funds to us to help broadcast or disseminate these ads. We work closely with the national political party committees on these ads.

20. I have observed many Special Interest Groups also broadcast issue ads concerning the public policy positions of elected public officials and other community leaders. These groups do not have to report publicly the sources of these funds, which may be raised in unlimited amounts from any source (the state party has always paid for these ads with a combination of federal and state funds). Since 1996, these ads have become increasingly important for the Party to be able to run in order to inform the public where our Party, its elected officials and candidates stand on issues of public importance. It is my understanding that under BCRA, state political parties will be unable to use any of the funds that are legal under state law to help pay for these messages. This means the ability of the parties to get out their message in the issue debate will be diminished drastically, while Special Interest Groups using non-disclosed unrestricted funds from any source in any amount will be able to dominate in defining our elected public officials and Party positions. This will put the parties at a severe disadvantage in engaging in this form of speech.

21. As Chair of the RPOF, a major part of my duties include aiding candidates for statewide office, the state legislature and local offices. Florida law permits state candidates to receive contributions from an entity (can be a person, business, corporate entity or registered political committee) up to \$500 per election. Both the Republican and Democratic parties run ticket-wide programs designed to aid all candidates on the ballot. Under Florida law, political parties are capped at a \$50,000 contribution to statewide candidates with the cap lowered to \$25,000 if the candidate accepts public financing. In 1997, Florida laws were reformed to allow a greater role for the political parties. They may pay for certain campaign-incurred expenses as non-allocable in-kind contributions to the individual campaigns that do not count against the \$50,000 (or \$25,000) limitation. Those expenses are: professional consulting services, telephone calls, cost of campaign staff, polling, and research. Political parties may pay the cost for any communication that jointly endorses three or more state candidates, without the expenditure being a contribution or

expenditure on behalf of the state candidates. Federal candidates cannot be included in these communications without a portion being paid for with Federal dollars for those candidates. Generic messages are paid for according to the ballot allocation formula using the Federal and State accounts. Our state candidates agree to participate in this program because we can aid them with funds permissible under state law.

22. It is my understanding that under BCRA, any mention of a Federal candidate would prohibit the Party from using any funds raised under State law. It is my belief that, given this restraint, the statewide, state legislative and local candidates will insist on running their own programs that do not mention any Federal candidate and do not promote the "Republican ticket" in order to avoid having to allocate with the Levin account. This will lead to the decline of the State Political Parties since our ability to aid all candidates on the ticket will be drastically reduced.

23. The amount of Federal dollars that the Republican Party of Florida is able to raise to support our candidates and party programs is limited by demographic, economic and political constraints. There is a finite number of individuals and political action committees who will contribute to a political party. This is based on the number of people who are philosophically compatible with our positions and wish to make the financial commitment. It is also dependent on the RPOF's perceived political successes and failures and the quality of our candidates and leadership. But perhaps the most important factor is the limit on the amount that may be contributed to a state political party, and therefore the amount that a state party may dedicate to fundraising. If BCRA prohibits the Republican Party of Florida from allocating the costs of its party building programs and issue advocacy communications between its Federal and State accounts as it does now and has to pay for them with a significantly greater share of Federal dollars, it will not be able to register, identify, contact or turnout as many voters, nor support its candidates as robustly as it does now.

24. I have heard proponents of BCRA state that if the national political parties can no longer raise non-federal dollars, then those dollars will go to reinvigorated state parties. It seems to me this misses an essential practical effect of this new law. Even if this money comes to the state parties, it will come to their non-federal accounts. That money cannot be spent on any party building activity that mentions any federal candidate or includes any generic electioneering message such as "Vote Republican". It is my understanding that BCRA requires federal funds to be used for any message that mentions a specific federal candidate and that any generic message be allocated between the federal account and the Levin account. That means, in my opinion, that even if the state parties have large balances in their State accounts, they will not be able to spend it on joint activities benefiting the entire ticket.

25. In my experience raising funds for the Republican Party of Florida, donors of non-federal State funds (labeled "soft money" during the BCRA debate) are motivated by the same factors as donors of Federal dollars. I believe that there are three basic reasons that individuals and entities donate money to a political party, and we appeal to these motivations in our fundraising activities.

26. First, both Federal and State dollar donors tend to be strong and loyal supporters of the party. From my discussions and observations over the years, it is my opinion that virtually all Federal and State donors to the Republican Party of Florida do so because of loyalty to the party and agreement with its philosophy, rather than out of any desire to influence particular issues pending before either the Federal or State government when they make their contributions. The donors' belief in the philosophy of the Republican Party is confirmed by their loyalty.

27. The second reason is that donors enjoy being involved in the political process and our events. The Republican Party of Florida expends much effort and money planning and holding a variety of programs for both Federal and State dollar donors. The donors want to meet the

elected public officials and candidates that vote on the nation's and state's laws. In addition, attending our events gives donors the opportunity to associate with, meet and discuss issues with like-minded people.

28. The third reason is that I have found that the individuals and other entities who participate by contributing to our Party have a sense of philanthropy that is symptomatic of contributing to many causes in their communities and country. Our donors generally believe in giving to causes they support without any expectation of receiving any tangible benefits in return.

29. In my opinion, it is inaccurate that the political parties raise the bulk of their money through major donations. For the period January 1, 1995 to December 31, 2000, contributors donating \$100 and less composed 91% of the donors to the Republican Party of Florida. We, and virtually every other Republican state party of which I am aware, rely on small contributions raised through direct marketing for the majority of funds in both the Federal and State accounts.

30. I observed during the debate over BCRA and in the surrounding media accounts a considerable amount of comment, generally from people unfamiliar with political fundraising on the state level, that individuals and entities that contribute money legal under our State law to State Parties did so in order to buy access to candidates and officeholders. The insinuation was that a donor of money legal under the laws of my state to my state party was seeking improper influence over the legislative process and the federal and state lawmakers from my party. Based on my years in politics, I categorically reject this contention.

31. First, virtually every fundraising event we sponsor includes both Federal and State dollar contributors. That means that a person does not have to contribute State dollars to attend and meet our Republican elected officials and candidates. Even if the Republican Party of Florida did not raise the funds legal under our state law, we would encourage candidates and elected public

officials to attend our events. The contention that State "soft dollar" donations buys access to legislators is simply incorrect.

32. In addition, while our fundraising events are really not conducive to or appropriate for lobbying, it is also true that individuals and entities with business before Congress or the State Legislature almost always hire lobbyists. It is the business and function of these lobbyists to meet directly with the elected public officials and their staffs to make presentations and discuss issues. These activities are perfectly appropriate, and would take place whether or not a person made a soft money contribution to the State Party.

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge.



Al Cardenas

Executed on October 15, 2002