

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF COLUMBIA

3 Republican National Committee, et al., )  
4 )

5 Plaintiffs, )  
6 )

7 v. )

8 Federal Election Commission, et al., )  
9 )

10 Defendants, )  
11 )

12 and )

13 Senator John McCain, Senator Russell )  
14 Feingold, Representative Christopher )  
15 Shays, Representative Martin Meehan, )  
16 Senator Olympia Snowe, Senator James )  
17 Jeffords, )  
18 )

19 Intervenor-Defendants. )  
20 )

) Civ. No. 02-874

) (CKK, KLH, RJL)

) consolidated with

) Civ. No. 02-582

) (CKK, KLH, RJL)

21 REDACTED

22 DEPOSITION OF  
23 ALAN PHILP  
24 TAKEN ON  
25 THURSDAY, SEPTEMBER 19, 2002

Reported by:

Elizabeth Brodlieb, RPR

1 Deposition of ALAN PHILP, taken on behalf of the  
2 Plaintiffs, at 1200 17th Street, Suite 1500, Denver,  
3 Colorado, commencing at 11:07 a.m., on Thursday,  
4 September 19, 2002, before Elizabeth Brodlieb, RPR.

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6 APPEARANCES

7 FOR THE PLAINTIFFS:  
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14 FOR THE COLORADO REPUBLICAN PARTY:

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1 APPEARANCE (Continued)  
2 FOR THE NATIONAL REPUBLICAN PARTY:  
3 PATTON BOGGS, LLP  
4 By: BENJAMIN L. GINSBERG, ESQ.  
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10 FOR THE REPUBLICAN NATIONAL COMMITTEE:  
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1 will have the ability to comment on the fact that you  
2 changed your testimony after – after the deposition or  
3 perhaps after you discussed it with counsel and the like.  
4 So you should, and I assume you will, make every effort  
5 to answer the questions to the best of your knowledge and  
6 fully today and not rely on the ability to fix it later  
7 on if you goof today. Do you understand that?  
8 A. Yes.  
9 Q. Do you have any questions about the  
10 deposition procedure?  
11 A. I just want to close that window shade  
12 because it's bothering my eyes. Sorry.  
13 THE DEPONENT: Thank you, Sean.  
14 Q. (By Mr. Phillips) Is there any reason at all,  
15 physical condition, medication that you're taking or  
16 anything else that you can think of why you can't give me  
17 your best recollection, best testimony today?  
18 A. No.  
19 Q. What, if anything, did you do to prepare to  
20 testify today on behalf of the Colorado Republican Party?  
21 A. I had a number of meetings with my counsel.  
22 I reviewed documents with my staff. I reviewed the  
23 request for documents and the interrogatories. I at  
24 least skimmed the actual petition to the Court and  
25 reviewed, to the best of our ability, the financial

1 the party?

2 A. I've reviewed our budgets in a very general  
3 sense to determine how it's going to affect our revenue  
4 flow, our ability to support party-building programs and  
5 our state candidates, and, you know, what new accounts we  
6 need to set up to implement it.

7 Q. When you say you analyzed how it would  
8 affect the revenue flow, what do you mean by that, more  
9 specifically?

10 A. Well, certainly, BCRA is going to have a  
11 profound impact on our fundraising abilities and our  
12 ability to transfer money with the federal - I'm sorry,  
13 the national committees, Republican National Committee  
14 and its affiliates.

15 Q. What analysis, if any, have you or anyone  
16 else at the party done with respect to the effect of the  
17 BCRA on the party's revenue flow?

18 A. I've done just a very general analysis to  
19 try and empiricise the impact of this legislation on the  
20 Colorado Republican Party and determine that the impact  
21 on our ability to support our state candidates and do  
22 party-building activities will be quite profound.

23 Q. What analysis did you do?

24 A. I reviewed our past budgets, determined what  
25 portion of it, just in a general percentage, is derived

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1 might raise money differently under the BCRA than you've  
2 done in the past?

3 MR. GINSBERG: If you haven't done analysis,  
4 you haven't done analysis. You don't need to speculate  
5 about this.

6 A. I think we are bordering more on  
7 speculations. I haven't done a formal analysis.

8 Q. (By Mr. Phillips) All of my questions, if you  
9 haven't - if you haven't done it, you don't recall,  
10 that's the answer. I don't want you to speculate.

11 As far as you know, has anyone at the party  
12 talked with any fundraising consultants with respect to  
13 different ways to fundraise under the BCRA?

14 A. As far as I know, no.

15 Q. What analysis has the party done of ways in  
16 which it might change its political operations to achieve  
17 its objectives effectively under the BCRA?

18 A. There have been general conversations.  
19 There is no formal analysis.

20 Q. Who has had those conversations?

21 A. I've had conversations with my chairman and  
22 with republican friends who care about the future of the  
23 party.

24 Q. Who is the chairman?

25 A. Bruce Benson.

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1 from transfers and from our relationships with the  
2 national committees.

3 Q. Did you do any other analysis to determine  
4 the effect of the BCRA on the revenue flow of the party?

5 A. I haven't done a lot because we're focused  
6 on November 5, 2002 right now. So I think that there's  
7 going to be a lot more to do. I have not done a  
8 significant amount.

9 Q. You understand that one of the bases upon  
10 which the republican party claims that the BCRA is  
11 unconstitutional is that it will have a negative effect  
12 on the revenue and operations of the party. Do you  
13 understand that?

14 A. That's one basis, yes.

15 Q. What, if anything, has the party done to  
16 analyze ways in which it might raise money differently  
17 than it has done in the past under the BCRA?

18 A. Obviously, we will look for ways to mitigate  
19 the damage to our party-building activities and our  
20 support for the candidates. My assessment is that there  
21 is no way that we will be able to backfill, so to speak,  
22 the impact of this legislation on our abilities as a  
23 party to support our candidates or do basic core  
24 function.

25 Q. What analysis have you done of ways that you

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1 Q. And in any of those conversations, was  
2 counsel for the party present or participating?

3 A. No, not with my conversations with the  
4 chairman.

5 Q. And what did you discuss with Mr. Benson  
6 about - I apologize. I don't know if Mr. Benson - does  
7 he hold any elected office?

8 A. No. Huh-uh.

9 Q. What was the substance of the conversation  
10 or conversations with Mr. Benson about ways that the  
11 party might change its political operations?

12 A. The conversations generally go along the  
13 lines that this - this - the BCRA legislation will  
14 force a lot of the political activity and the resources  
15 that bring about that political activity underground into  
16 organizations that don't have to disclose their  
17 contributors.

18 Q. Did you discuss at all with Mr. Benson or  
19 any of your other republican colleagues the effect that  
20 the BCRA would have on the relative use of media  
21 advertising versus other sorts of mobilization and  
22 persuasion activities?

23 MR. GINSBERG: I'm going to object to the  
24 form of the question on vagueness grounds. Are you  
25 referring to activities by the party or by all general -

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1 MR. PHILLIPS: Yes. It's a fair objection.  
 2 This is a line of questions, but I'll clarify.  
 3 Q. (By Mr. Phillips) Did you discuss what effect  
 4 the BCRA would have on the relative use by the party of  
 5 broadcast activities as opposed to other types of  
 6 mobilization or persuasion activities?  
 7 A. Not specifically as it relates to broadcast  
 8 TV.  
 9 Q. And did you talk about it specifically as it  
 10 related to radio advertising?  
 11 A. No.  
 12 Q. Have you discussed that with anyone?  
 13 A. Specifically as it relates to broadcast TV  
 14 or radio, no.  
 15 Q. Is it correct that the basic analysis that  
 16 you did of the effect on the party's revenue flow was to  
 17 look at the money raised in the past by the party, either  
 18 from individuals or nonparty entities or from transfers  
 19 from other party organizations, and assess how much of  
 20 those contributions or transfers would have been  
 21 disallowed if the BCRA had been in effect at that time?  
 22 A. That's certainly part of the analysis, yes.  
 23 Q. Okay. Is there another part, and if so,  
 24 what was it?  
 25 A. Well, that's part of an overall equation.

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1 Q. Does the party do any polling on behalf of  
2 federal candidates, even if the polling is on behalf of  
3 state candidates as well?  
4 A. Yeah.  
5 Q. And does the party provide any mail,  
6 m-a-i-l, services on behalf of federal candidates?  
7 MR. GINSBERG: Let me object on vagueness  
8 grounds. It's a term of art. If you could, define "mail  
9 services."  
10 Q. (By Mr. Phillips) Do you understand what I  
11 mean by that?  
12 A. Yes.  
13 Q. What do you understand it to mean?  
14 A. Do we develop mail on behalf of a candidate?  
15 Q. Yeah. And do you on behalf of federal  
16 candidates?  
17 A. We are permitted by law to coordinate a  
18 significant amount of mail with our candidates, and we,  
19 in conjunction with the candidate, do so, yeah.  
20 Q. And does the party provide any assistance  
21 with respect to the production of either broadcast or  
22 radio or print advertising to federal candidates?  
23 A. Yes. From time to time, yes.  
24 Q. And does the party provide any campaign  
25 organization advice or consulting services to federal

1 MR. GINSBERG: Objection. He's not familiar  
2 with the NRCC budget.  
3 A. I don't know.  
4 Q. (By Mr. Phillips) What election-related  
5 services do -- does the Colorado Republican Party provide  
6 to candidates, federal candidates?  
7 A. To federal candidates?  
8 MR. GINSBERG: I think you asked that, but  
9 go ahead and answer it.  
10 MR. PHILLIPS: I thought we took a break  
11 before he answered the question.  
12 THE DEPONENT: He's correct.  
13 MR. GINSBERG: But you did ask it.  
14 A. We provide in some cases direct  
15 contributions to federal candidates. We help coordinate  
16 and execute a number of Get-out-the-vote activities, and  
17 in some cases we do direct voter contact-type activities,  
18 whether it's mail, phones, radio, TV.  
19 Q. (By Mr. Phillips) Does the party do any issue  
20 research on behalf of federal candidates?  
21 A. The Colorado Republican Party would  
22 typically defer federal candidate research to the  
23 National Republican Congressional Committee, although  
24 when the National Republican Congressional Committee does  
25 its research, they seek our advice very closely.

1 candidates?  
2 A. In-house advice?  
3 Q. Yes.  
4 A. Yes.  
5 Q. Do you also arrange outside consulting  
6 advice from candidates from time to time?  
7 A. I can't recall any specific incidents, no.  
8 Q. Any other services that the party provides  
9 to federal candidates?  
10 A. Well, our Get-out-the-vote program is  
11 designed to benefit all candidates. That could include  
12 voter registration and so on and so forth.  
13 Q. And is the same true of generic party  
14 advertising, in other words, Vote Republican, that's  
15 designed to benefit all the candidates?  
16 A. Yes.  
17 Q. Are you aware of any other organization or  
18 entity in Colorado that provides that range of services  
19 to federal candidates in Colorado?  
20 MR. GINSBERG: You're speaking of the  
21 present and past?  
22 MR. PHILLIPS: Yes.  
23 A. No.  
24 Q. (By Mr. Phillips) So the party is unique in  
25 that regard, correct?

1 A. Yeah. I think that's a fair  
2 characterization, yeah.  
3 Q. And you understand that -- strike that.  
4 Does the -- based on your experience, do you  
5 believe that the public perceives the party's speech as  
6 that of its candidates and vice versa?  
7 A. I think they're closely linked, yes.  
8 Q. Do you believe that the speech of any other  
9 organization or entity is as closely linked with  
10 republican candidates as that of the republican party?  
11 A. I suppose if the candidate's wife or husband  
12 spoke, but . . .  
13 Q. Other than that?  
14 A. No, probably not.  
15 Q. Maybe even sometimes not then, depending on  
16 what he or she says.  
17 MR. GINSBERG: Why do you say that?  
18 Q. (By Mr. Phillips) Does the Colorado Republican  
19 Party recruit candidates to run for office in Colorado?  
20 A. State or federal?  
21 Q. Yes.  
22 A. Yes.  
23 Q. Both, state and federal, correct?  
24 A. I think it's likely that we have had a role  
25 in recruiting federal candidates. I can't think of a

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1 Putting aside the fact that it may be -- the process  
2 itself might be, to some extent, specified by law, who  
3 implements that process?  
4 A. The county parties as well as the state  
5 party.  
6 Q. And -- I'm sorry -- the petition process,  
7 how does that work?  
8 A. The petition process, I don't know the exact  
9 number of signatures you have to get to appear on the  
10 ballot, but if you don't want to go through the  
11 cumbersome caucus system, you can petition on the ballot,  
12 collect a number of signatures, and your name will appear  
13 below those that received their votes through the caucus  
14 system.  
15 Q. So that if you -- if a candidate proceeds  
16 through the party-organized caucus system, he or she --  
17 his or her name will appear above the other names on the  
18 primary ballot?  
19 A. That's my understanding, yeah.  
20 Q. And is there an advantage, in your opinion,  
21 to having your name appear above other candidates?  
22 A. I'd say there's at least a nominal  
23 advantage.  
24 Q. And the primary itself, who organizes the  
25 primary? Who conducts the primary?

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1 specific example where we have.  
2 MR. GINSBERG: Congressional district?  
3 THE DEPONENT: Yeah.  
4 Q. (By Mr. Phillips) And does the Colorado  
5 Republican Party nominate the congressional and senate  
6 candidates in Colorado -- republican congressional  
7 candidates in Colorado?  
8 A. Well, we have a fairly complicated  
9 nominating process, but the Colorado Republican Party is  
10 involved and organizes the entire effort, yes.  
11 Q. So what is involved in that process?  
12 A. There's two ways a candidate can get on the  
13 ballot, through a caucus system or through petitions.  
14 And then you have a primary, and the victor in the  
15 primary appears in the general election ballot. Part of  
16 the caucus system is that we go through nominating  
17 conventions that determine your place on the ballot, and  
18 if you don't reach a certain threshold, then you're off  
19 the ballot.  
20 Q. And that entire process is controlled by the  
21 party?  
22 A. No. It's governed in large part by state  
23 law. We have bylaws that do influence the process as  
24 well.  
25 Q. Who actually implements the process?

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1 A. The county clerks in conjunction with the  
2 Secretary of State set up the primaries, the ballot  
3 locations, the ballots and so on and so forth.  
4 Q. And -- I'm sorry -- in Colorado, is it an  
5 open primary or a party primary?  
6 A. It's largely closed. If you're an  
7 unaffiliated voter, you can go declare a registration  
8 change at the polling place.  
9 Q. And then once you have -- the candidate that  
10 wins the nomination in the primary, that candidate and  
11 only that candidate is entitled to identify himself or  
12 herself as the republican candidate on the general  
13 election ballot; is that correct?  
14 A. Correct. Yes.  
15 Q. And once the candidate is nominated, that  
16 candidate is then identified with the republican party  
17 during the election on the ballot and, you know, office,  
18 correct, unless he or she acts as Mr. Jeffords did and  
19 become independent; is that correct?  
20 A. That's correct, yeah.  
21 Q. And is it also true typically that a  
22 successful candidate, successful republican candidate,  
23 becomes a leader at one level or other within the  
24 Colorado Republican Party itself?  
25 A. Yeah. I think that's a fair

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1 characterization, yeah.  
 2 Q. For example, all of the members of – the  
 3 republican members of Congress from Colorado sit on – is  
 4 it the executive board?  
 5 A. Our executive committee, correct.  
 6 Q. – executive committee of the Colorado  
 7 Republican Party, correct?  
 8 A. Yes. Yes.  
 9 Q. And is it true that the party’s public image  
 10 is in large part determined by what the republican  
 11 officeholders in Colorado and republican candidates in  
 12 Colorado say and do?  
 13 A. I think that’s a significant part of our  
 14 image, correct.  
 15 Q. And on the flip side, do you think it’s also  
 16 true that the party’s candidates and officeholders are  
 17 held accountable by what the republican party says and  
 18 does?  
 19 A. To a lesser extent I think that’s probably  
 20 true.  
 21 Q. You said that – I believe you said that the  
 22 party’s Get-out-the-vote activities are intended to  
 23 affect the electoral prospects of all the party’s  
 24 candidates, state and federal; is that correct?  
 25 A. I believe that’s what I said, yeah.

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