1411 K St. NW, Suite 1400
Washington, DC 20005

THE CAMPAIGN LEGAL CENTER

Tel: 202.736.2200
Fax: 202.736.2222

Republican Party of Louisiana v. FEC:

A Challenge to Contribution Limits to Political Parties

BACKGROUND: WHY WE NEED LIMITS ON CONTRIBUTIONS TO POLITICAL PARTIES

The federal campaign laws have long placed limits on what individuals and certain entities can give to political parties in connection with federal elections. The reason for these limits is simple: political parties should focus on engaging average voters instead of doing the bidding of just a handful of wealthy donors.

But loopholes in post-Watergate reforms allowed parties to bypass the limits. Political parties began soliciting and accepting "soft money,"[1] or large, unlimited contributions from individuals, corporations and labor unions, to pay for "issue" ads that avoided directly calling for the election or defeat of a particular candidate but otherwise looked and sounded like campaign ads. Parties also used these unlimited contributions to fund activities that they claimed related to state and local elections, as well as mixed-purpose activities benefiting both federal and state candidates such as get-out-the-vote efforts. Although these funds were supposedly "non-federal," they were used for activities that significantly boosted the prospects of candidates at all levels of the ticket, including federal candidates. Therefore, by soliciting and spending large soft-money contributions, parties could help donors evade the base limits for contributions to federal candidates, and those donors could exploit the naturally close ties between the parties and those candidates to obtain political favors – which the congressional record shows included anything from favorable legislative action to overnights in the Lincoln bedroom.

Congress sought to plug the so-called "soft-money loophole" by enacting the Bipartisan Campaign Reform Act ("BCRA") in 2002, which imposed limits on the contributions that federal, state and local party committees could collect. One BCRA provision established limits on contributions to state and local party committees insofar as the funds were spent on "Federal election activity," which included:

- Voter registration activities within 120 days of a federal election;
- Voter identification, generic campaign activities, and get-out-the-vote activities in years when federal, state and local candidates appear on the ballot;
- Public communications that promote or attack a federal candidate;

[1] Under the federal campaign laws, all "contributions" must be made from funds that comply with the law's disclosure requirements and source and amount restrictions—i.e., from "federal" or "hard" money.

- Compensation for party employees spending more than 25 percent of their time on federal election activities.

THE REPUBLICAN PARTY OF LOUISIANA'S LEGAL CHALLENGE

The Republican Party of Louisiana is asking a three-judge federal district court in D.C. to undo the "soft money" limits applicable to state and local party committees engaged in federal election activity. The plaintiffs argue that the First Amendment prohibits Congress from limiting the sources and amounts of any contributions used by the party committees for independent activities. The challenge boils down to one erroneous proposition: contributions to state and local political parties cannot be corrupting as long as they are not spent in coordination with a candidate. However, this flies directly in the face of both common sense and controlling Supreme Court precedent.

The three-judge court hearing this case is bound by the Supreme Court's 2003 decision in *McConnell* upholding this specific soft money restriction. Even so — because the case is proceeding under an expedited judicial-review mechanism in BCRA allowing for a three-judge court with direct appeal to the Supreme Court — the case could be a blockbuster.

WHAT'S AT STAKE: THE RETURN OF SOFT MONEY

This case is yet another attempt to dismantle BCRA's pro-democracy reforms and restore the soft-money era — so the stakes are high. Some have likened it to the next *Citizens United*, recognizing that it has been brought by the same lawyer, who claims he won't rest until every money-in-politics rule has been overturned.

If these modest limits are struck down, it would severely damage the ability of everyday voters to have their voices heard over the din of big-money donors, as well as exacerbate the public's fear that their elected representatives are beholden only to the wealthy donors who fund their campaigns for office.

The Campaign Legal Center has filed a friend-of-the-court brief arguing the challenged provision is a crucial firewall against the well-documented abuses of the soft-money era. To strike it down would blow an enormous hole in the anti-corruption edifice that Congress erected with BCRA, as it would once again enable state and local party organizations to serve as conduits for corrupt exchanges between candidates and donors.

For more information about the case, contact the Campaign Legal Center at *inffo@campaignlegalcenter.org*.