

been passed requiring detailed public disclosure of campaign finance activities. From this past election through the present, coordinated interests in support of Republican candidates have and are continuing to engage in activities recognized as political under state law without complying with state disclosure laws. Plaintiffs seek all appropriate relief to require public disclosure and to obtain judgment against the wrongdoers for twice the unlawful contributions and expenditures, as provided by law. Defendants respond that such longstanding laws are unconstitutional despite a recent ruling of *Citizens United*, where the U.S. Supreme Court rules 8-1 in favor of laws that require disclosure. Plaintiffs believe the Courts should uphold these disclosure laws as they have done many times before. Alternatively, Plaintiffs request the Courts to determine the issues once and for all so that an unequal political playing field concerning financial disclosure does not persist.

Parties

Plaintiff Texas Democratic Party is a political party and a political committee as those terms are defined in the law and it is formed under the Texas Election Code. TDP's address is 505 West 12th, Austin, Travis County, Texas 78701.

Plaintiff Boyd L. Richie is Chairman of the Texas Democratic Party and a registered voter in Young County, Texas.

Plaintiff John Warren is the elected County Clerk for Dallas County and was the 2010 Texas Democratic Party Nominee for re-election to that office. He is also a registered voter in Dallas County, Texas.

Plaintiff Ann Bennett was the 2010 Texas Democratic Party Nominee for election to the office of Harris County Clerk. She is also a registered voter in Harris County, Texas.

Defendant King Street Patriots, In. is s sham domestic nonprofit corporation that instead acts as an unregistered and illegal political committee. It may be served through its registered agent, Catherine Engelbrecht at 708 Damascus, Rosenberg, Texas 77471.

Defendant Catherine Engelbrecht is an individual who operates King Street Patriots, Inc. as an illegal political committee in knowing violation of law. She may be served at 708 Damascus, Rosenberg, Texas 77471.

Defendant Bryan Engelbrecht is an individual who operates King Street Patriots, Inc. as an illegal political committee in knowing violation of law. He may be served at 708 Damascus, Rosenberg, Texas 77471.

Defendant Dianne Josephs is an individual who operates King Street Patriots, Inc. as an illegal political committee in knowing violation of law. She may be served at 3225 Locke Lane, Houston, Texas 77019.

Venue

Venue is proper in Travis County because a substantial part of the actions sought to be enjoined will occur in Travis County and because a substantial part of the facts occurred in Travis County. *See* Tex. Civ. Prac. & Rem. Code § 15.002(a)(1). Defendants continue to make unlawful political expenditures that directly and indirectly are utilized in Travis County. For example, prior to this last election, Defendants produced videos utilized as "training films" for poll watchers in Travis County. Defendants have conducted video seminars that include Travis County participants. Defendants have held meetings and conventions where speakers proclaim the group to have "statewide" and "national" intentions and activities.

Also, upon information and belief, Defendants accepted cash and/or in-kind political contributions in Travis County and/or from donors who were residents of Travis County. Upon

information and belief, Defendants have received for payment or as an in-kind contribution, political advice and/or assistance from Travis County residents.

In short, the Defendants made political expenditures and/or received political contributions in Travis County that were not disclosed as required by law.

Finally, the Defendants failed to make reports to the Texas Ethics Commission in Travis County as required by law. This legally required act was required to occur in Travis County, Texas.

Plaintiffs contend the following activities of Defendants occurred in Travis County thereby supporting venue in Travis County:

Defendants spent funds and in-kind efforts designing, implementing and preparing training materials for poll watcher programs that were utilized by the Travis County Republican Party with regard to the 2010 election for state and county officers. These training materials were at a minimum utilized at an October 27, 2010 training seminar.

Defendants prepared a video that was utilized at poll watcher trainings in Travis County on October 26 and 27, 2010. Such video was created with political expenditures. The use of the video by a Travis County group amounts to a political expenditure by Defendants.

Defendants conducted a "statewide summit" in Houston to which residents of Travis County were invited. This event was offered to and viewed by residents throughout the state and contained training and other political speech intended to affect an election or elections. The cost of the event and in-kind information offered amount to political expenditures and/or political contributions.

KSP official Defendant Engelbrecht has stated the efforts of King Street Patriots are being expanded upon nationally, including Travis County.

KSP organized and made political expenditures in funds and/or in-kind services to examine the Election Code and press for changes in Travis County in its broader effort to increase the voter for Republican office holders.

KSP held a "nationwide summit" in Houston to which residents of Travis County were invited. This event was offered to and viewed by residents throughout the state and contained training and other political speech intended to affect an

election or elections. The cost of the event and in-kind information offered amount to political expenditures.

KSP and Defendant Engelbrecht organized a speech and events on the opening day of the latest legislative session, in Travis County, wherein much discussion was had concerning Defendants' political activities. The costs and expenses of this event was a political expenditure.

Multiple documents produced by TDP prove the Defendants' activities had statewide reach before the last election. Defendants' political expenditures were utilized at least in Harris, Dallas, McClennan, El Paso, Montgomery, Williamson, Tarrant and Travis Counties.

On October 5, 2010, Defendant Engelbrecht admitted she was taking her group national, which would include Travis County.

Defendants have created at least one video and one internet video seminar (April 28, 2011) concerning their political activities that were available to Travis County residents. Such videos and the costs to produce them are political expenditures.

On March 14, 2011, KSP organized a group attendance before a Texas House Committee hearing in Travis County concerning "voter fraud." The expenses to organize and train those in attendance are political expenditures. Also, KSP organized opposition testimony for and/or against measures being considered by the Texas Legislature on approximately a dozen occasions in Travis County.

It is Plaintiffs' profound belief other expenditures were made in Travis County but because Defendants refuse to comply with the state disclosure laws and discovery propounded on these issues, such further itemization cannot occur.

Venue is also appropriate in Travis County because some if not all of the Defendants' activities affected statewide elections. The Texas Election Code provides that a proper venue for such violations is Travis County. TEC 273.024. Also, generally the Legislature has selected Travis County as an appropriate venue for such suits. For example, the Legislature has set venue for cases involving the Texas Ethics Commission penalties in Travis County. TEC 251.004.

Facts/Law

Sometime in advance of the 2010 General Election for State and County Officers, Defendants formed and began operating as a political committee. At some point in time, Defendants began operating the political committee under the name and organization King Street Patriots, Inc. (hereinafter "KSP"). KSP was formed as a 501c(4) and was explicitly created in an effort to make and receive political contributions and to make political expenditures without complying with federal or state disclosure laws. KSP was formed at or about the same time as other Republican-aligned groups throughout the nation in response to the United States Supreme Court's decision of *Citizens United v. Federal Election Commission*, 558 U.S. 50 (2010). In fact, some of KSP's legal counsel were also counsel in *Citizens United*. The *Citizens United* case overturned certain federal campaign finance laws insofar as they infringed upon a corporation's right to engage in political speech through "independent expenditures." The decision explicitly applied only to the federal statutes and to those expenditures where there was no coordination between political actors and the corporate speaker. The decision also overwhelmingly supported laws that required disclosure of political financial transactions. Nevertheless, overnight corporate organizations were formed across the country to collect contributions and make "independent" political expenditures without public disclosure. KSP was one of these groups.

However, KSP organized in Texas where the public disclosure laws are significantly different than the federal laws in *Citizens United*. Furthermore, the activities KSP engaged in were not "independent" from the political campaigns it hoped to benefit. For example, KSP held candidate forums that only included Republican interests. The Governor and other Republican officeholders have held political rallies at KSP events. Also, in KSP's efforts to address the nonexistent "voter fraud," it has trained poll watchers and assigned them to polling locations in

past elections. These trainings were held in coordination with Republican Party officers. The trained "poll watchers" were then assigned to polling locations in direct coordination with and request of Republican Party and elected officials. Each of the foregoing constitutes political expenditures and political contributions under state law. Furthermore, there are numerous other political expenditures made by Defendants from political contributions that were not "independent" and were not disclosed as required by state law.

Plaintiffs were harmed by Defendants' unlawful activities because they were the target of political activities. Furthermore, Plaintiffs are at a strategic disadvantage for complying with state disclosure laws when often their political opponents, including Defendants, ignore such laws. Defendants, in their answer to this suit, seem to admit violations of duly enacted state laws. Instead, Defendants complain such laws are unconstitutional. Defendants make such a claim despite the fact that the *Citizens United* decision explicitly did not strike down state laws. Furthermore, the Texas Supreme Court has already considered and rejected the argument that the laws implicated here are constitutionally infirm. *See Osterberg v. Peca*, 12 S.W.3d 31 (Tex. 2000).

Absent court intervention, Defendants have and will continue to violate state disclosure laws.

Texas Election Code

Defendants' activities described above violate numerous provisions of the Texas Election

Code including the following:

1. Making a contribution or expenditure in the name of another. TEC 253.001.
2. Exceeding the \$500 limitation on contributions from an out-of-state committee and failing to obtain the proper disclosure from the out-of-state committee TEC 253.032.
3. Unlawfully directing a campaign expenditure. TEC 253.002.
4. Unlawfully accepting a political contribution. TEC 253.003.
5. Making an expenditure from an unlawful contribution. TEC 253.005.
6. Making an expenditure that violates the Texas Election code. TEC 253.004.
7. Receiving a contribution or making a political expenditure without appointing a treasurer. TEC 253.031
8. Making or accepting a contribution from a corporation. TEC 253.094.
9. A corporation making a contribution to a political party. TEC 253.104.
10. Timely record keeping and timely report filing. TEC Chapter 254.

Claims for Relief

1. Claims for Damages

Plaintiffs pray for their damages as required by Texas Election Code §§ 253.131-132. Specifically, Plaintiffs pray for judgment against Defendants for two times the amount of the wrongful contributions and/or expenditures, as well as attorneys' fees as required by the aforementioned statutes. Plaintiffs seek judgment against all Defendants, jointly and severally.

Plaintiffs further allege the Defendants are a part of a civil conspiracy and therefore each is liable for the acts of the others.

2. Declaratory Judgment

Plaintiffs seek a declaratory judgment that defendants' activities are legally required to be reported pursuant to the state laws referenced above. Plaintiffs also seek a declaratory judgment that KSP must comply with Business Organizations Code 22.353. Plaintiffs have previously demanded inspection of books and records for this domestic nonprofit corporation under the terms of this statute. A TRO hearing was previously scheduled in this matter. In order to pass this hearing, the parties entered into an agreement for some limited disclosure. However, the disclosures provided did not comply with the statute. Plaintiffs request the court enter a declaratory judgment defining the extent of KSP's obligations under this statute and requiring compliance with same.

3. Application for Temporary Restraining Order

Plaintiffs ask this Court to enter a Temporary Restraining Order prohibiting the Defendants from accepting political contributions or making political expenditures until the Court conducts a full evidentiary hearing on a Motion for Temporary Injunction no more than 14 days from the TRO.

The Texas Election Code specifically relaxes the common law requirements for an injunction for those harmed or threatened harm by a violation of the state's election laws. TEC 273.081. Specifically this statute requires:

Sec. 273.081. INJUNCTION. A person who is being harmed or is in danger of being harmed by a violation or threatened violation of this code is entitled to appropriate injunctive relief to prevent the violation from continuing or occurring.

Nevertheless, it is probable that the Texas Democratic Party will prevail against Defendants on the merits and obtain permanent injunctive relief precluding the acceptance of political contributions or political expenditures without the requisite treasurer appointment and without the necessary public disclosure reports because allowing such omissions would violate numerous provisions of law as stated herein. Furthermore, permitting the unlawful behavior causes Plaintiffs harm because they are placed at a strategic disadvantage for complying with such state laws.

If the Texas Democratic Party's Application for Temporary Restraining Order is not granted, irreparable harm is imminent, because denying the request for the TRO allows the Defendants to undertake unlawful political activities that could determine elections while not complying with the state laws.

The Texas Democratic Party has no adequate remedy at law because damages from Defendants' unlawful conduct are incalculable and could not serve as adequate compensation for the wrong inflicted on the Plaintiffs and the voters of the state.

4. Request for Temporary Injunction

Incorporating the foregoing, Plaintiffs ask the Court to set this request for temporary injunction for hearing, and, after the hearing, enter a temporary injunction granting the relief requested herein.

5. Request for Permanent Injunction

After full trial on the merits, Plaintiffs ask the Court to enter a permanent injunction granting the relief requested herein.

Prayer

For the foregoing reasons, Plaintiffs respectfully request that the Court cite the Defendants to answer herein and thereafter enter judgment against Defendants for the relief requested herein.

Dated this 27th day of June, 2011.

Respectfully submitted,

TEXAS DEMOCRATIC PARTY

By: Chad W. Dunn
General Counsel
State Bar No. 24036507
4201 FM 1960 West, Suite 530
Houston, Texas 77068
Telephone: (281) 580-6310
Facsimile: (281) 580-6362

Texas Democratic Party
505 West 12th Street, Suite 200
Austin, Texas 78701

K. Scott Brazil
State Bar No. 02934050
4201 FM 1960 West, Suite 550
Houston, Texas 77068
Telephone: (281) 580-6310
Facsimile: (281) 580-6362

Dicky Grigg
State Bar No. 08487500
Spivey & Grigg, L.L.P.
48 East Avenue
Austin, Texas 78701
Telephone: (512) 474-6061
Facsimile: (512) 474-8035

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing instrument has been directed to the following counsel of record and/or interested parties herein by facsimile transmission, by certified mail, return receipt requested, and/or by regular first class U.S. Mail on this the 27th day of June, 2011:

Michael S. Hull
Hull Hendricks, L.L.P.
221 W. 6th Street, Suite 960
Austin, TX 78701
*(Attorney for King Street Patriots, Inc.,
Catherine & Bryan Engelbrecht and Dianne Josephs)*
By Fax Only: 512-494-0022

James Bopp, Jr.
Jared Haynie
Austin Hepworth
Bopp, Coleson & Bostrom
1 South 6th Street
Terre Haute, IN 47807
*(Attorney for King Street Patriots, Inc.,
Catherine & Bryan Engelbrecht and Dianne Josephs)*
By Fax Only: 812-235-3685

Brock C. Akers
Phillips & Akers, P.C.
3200 Southwest Freeway, Suite 3200
Houston, TX 77027
*(Attorney for King Street Patriots, Inc.,
Catherine & Bryan Engelbrecht and Dianne Josephs)*
By Fax Only: 713-552-0231

Margaret A. Wilson
807 Brazos Street, Suite 1014
Austin, TX 78701
*(Attorney for King Street Patriots, Inc.,
Catherine & Bryan Engelbrecht and Dianne Josephs)*
By Fax Only: 512-474-2540

Kelly J. Shackelford
Jeffrey C. Mateer
Hiram Sasser, III
Justin E. Butterfield
Liberty Institute
2001 Plano Parkway, Ste. 1600
Plano, Texas 75075
*(Attorney for King Street Patriots, Inc.,
Catherine & Bryan Engelbrecht and Dianne Josephs)*
By Fax Only: 972-941-4457

Jonathan M. Saenz
Liberty Institute
900 Congress, Suite 220
Austin, TX 78701
*(Attorney for King Street Patriots, Inc.,
Catherine & Bryan Engelbrecht and Dianne Josephs)*
By Fax Only: 512-478-2229

Chad W. Dunn

TEXAS DEMOCRATIC PARTY;
BOYD L. RICHIE, IN HIS CAPACITY
AS CHAIRMAN OF THE TEXAS
DEMOCRATIC PARTY; AND JOHN
WARREN, IN HIS CAPACITY
AS DEMOCRATIC NOMINEE FOR
DALLAS COUNTY CLERK,

Plaintiffs

vs.

KING STREET PATRIOTS, INC.,
CATHERINE ENGELBRECHT,
BRYAN ENGELBRECHT AND
DIANE JOSEPHS,

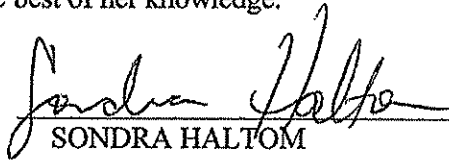
Defendants

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§ TRAVIS COUNTY, TEXAS
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§ 261st JUDICIAL DISTRICT

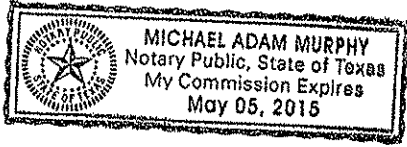
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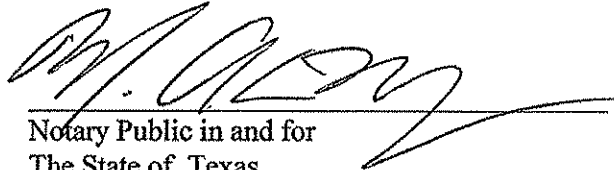
STATE OF TEXAS §
§
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared SONDRA HALTOM, who, after being by me duly sworn, upon her oath stated that she has read the foregoing Fourth Amended Petition, has personal knowledge of the contents thereof, and states that the factual averments therein are true and correct to the best of her knowledge.


SONDRA HALTOM

SWORN TO AND SUBSCRIBED BEFORE ME, on this the 27th day of June, 2011, to certify which witness my hand and official seal of office.




Notary Public in and for
The State of Texas