

TABLE OF CONTENTS

TABLE OF CONTENTS ii

TABLE OF AUTHORITIES..... iv

I. INTRODUCTION..... 2

II. SUMMARY JUDGMENT STANDARD 2

III. SUMMARY JUDGMENT EVIDENCE..... 3

IV. STATEMENT OF THE CASE/STATEMENT OF FACTS 4

V. ARGUMENT AND AUTHORITIES 4

 A. Determining the Constitutionality of Statutes 4

 1. Claims for Facial and As-Applied Unconstitutionality 5

 2. Presumption of Constitutionality Unconstitutionality..... 6

 3. Burden of Proof 7

 a. Generally 7

 b. In a First Amendment Context 7

 4. Constitutional Challenges Advanced by the Defendants 9

 B. Prior Determinations that Challenged Statutes are Constitutional..... 9

 C. Constitutionality of Challenged Statutes 10

 1. Statutes Governing Reporting and Reporting of Contributions 10

 a. What Sections 253.001 and 253.031 Provide 10

 b. Disclosure and Reporting Statutes are Constitutional..... 11

c.	Possibility of an As-Applied Challenge.....	14
2.	Statutes Governing Coordinated Political Expenditures	15
a.	What Sections 253.094 and 253.104 Provide	15
b.	Limitations on Direct Contributions are Constitutional.....	16
c.	Texas Law is in Accord with <i>Buckley</i>	18
3.	Statutes Providing for Enforcement	22
4.	Attacks on Definitions	25
a.	Vagueness and Overbreadth Claims Generally.....	27
b.	What the Definitions Say	28
c.	None of these Definitions are Too Vague.....	30
d.	Specific Vagueness/Overbreadth Claims	33
e.	Conclusion.....	34
5.	Other Arguments.....	34
a.	“Prior Restraint”	34
b.	Due Process — Clear Investigatory Standard.....	35
c.	Due Process — Scope of Discovery	36
d.	This is not a Defamation Case.....	38
e.	This is not a Search Warrant Case.....	40
D.	Summary Judgment for Access to Records.....	41
	CERTIFICATE OF SERVICE.....	45

TABLE OF AUTHORITIES

CASES

<i>Alexander v. United States</i> , 509 U.S. 544, 550, 113 S.Ct. 2766 (1993).....	34
<i>Barshop v. Medina County Underground Water Conservation Dist.</i> , 925 S.W.2d 618, 626-27 (Tex. 1996)	6
<i>Bose Corp. v. Consumers Union of the U.S., Inc.</i> , 466 U.S. 485, 490, 104 S.Ct. 1949 (1984).....	39
<i>Brooks v. Northglen Ass’n</i> , 141 S.W.3d 158, 169 (Tex. 2004).....	3, 6
<i>Buckley v. Valeo</i> , 424 U.S. 1, 23, 96 S.Ct. 612 (1976)....	8, 12-14, 16-19, 23, 29, 37
<i>Burdeau v. McDowell</i> , 256 U.S. 465, 474-75, 41 S.Ct. 574 (1921)	40
<i>Castillo v. State</i> , 59 S.W.3d 357, 359-60 (Tex. App. — Dallas 2001, pet. ref’d)..	10
<i>Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.</i> , 511 U.S. 164, 175-76, 114 S.Ct. 1439 (1994).....	31
<i>Cf. Alexander v. Thornburgh</i> , 713 F.Supp. 1278, 1290 (D. Minn.).....	23
<i>Citizens Assoc. for Sound Energy (CASE) v. Boltz</i> , 886 S.W.2d 283, 288 (Tex. App. — Amarillo 1994, writ denied), cert. denied, 516 U.S. 1029, 116 S.Ct. 675 (1995)	38
<i>Citizens United</i> , ___ U.S. ___, 130 S.Ct. 876, 909 (2010)	8, 11-14, 17-19, 23, 37
<i>City of Corpus Christi v. Public Util. Comm’n of Tex.</i> , 51 S.W.3d 231, 240-41 (Tex. 2001).....	5
<i>City of Pasadena v. Smith</i> , 292 S.W.3d 14, 19 (Tex. 2009)	6
<i>Cobb v. State</i> , 85 S.W.3d 258, 270-71 (Tex. Crim. App. 2002), cert. denied, 537 U.S. 1195, 123 S.Ct. 1256 (2003).....	41

<i>Combs v. STP Nuclear Operating Co.</i> , 239 S.W.3d 264, 272 n. 8 (Tex. App. — Austin 2007, pet. denied).....	5
<i>Connally v. General Constr. Co.</i> , 269 U.S. 385, 391, 46 S.Ct. 126 (1926).....	25
<i>Crawford-El v. Britton</i> , 523 U.S. 574, 595, 118 S.Ct. 1584 (1998).....	39
<i>Crucible, Inc. v. Stora Kopparbergs Berslags AB</i> , 403 F.Supp. 9, 12 (W.D. Pa. 1975).....	31
<i>del Canto v. ITT Sheraton Corp.</i> , 965 F.Supp. 927, 932 (D.D.C. 1994), aff'd, 70 F.3d 637 (D.C. Cir. 1995).....	31
<i>Doe v. Reed</i> , ___ U.S. ___, 130 S.Ct. 2811, 2818 (2010).....	8
<i>Ex parte Austin Indep. Sch. Dist.</i> , 23 S.W.3d 596, 600 (Tex. App. — Austin 2000, pet. ref'd).....	7
<i>Federal Election Comm'n v. Beaumont</i> , 539 U.S. 146, 161, 123 S.Ct. 2200 (2003).....	8
<i>Ford Motor Co. v. Texas Dep't of Transp.</i> , 264 F.3d 493, 509 (5th Cir. 2001)....	25
<i>Fort Wayne Books, Inc. v. Indiana</i> , 489 U.S. 46, 61, 109 S.Ct. 916 (1989).....	24
<i>FM Properties Operating Co. v. City of Austin</i> , 22 S.W.3d 868, 873 (Tex. 2000)..	6
<i>G.B. v. Rogers</i> , 703 F.Supp.2d 724, 730 (S.D. Ohio 2010).....	24
<i>Geeslin v. State Farm Lloyds</i> , 255 S.W.3d 786, 794 (Tex. App. — Austin 2008, no pet.).....	5
<i>Grayned v. City of Rockford</i> , 408 U.S. 104, 108-09, 92 S.Ct. 2294 (1972).....	25, 26
<i>Green Party of Conn. v. Garfield</i> , 616 F.3d 189, 198 (2nd Cir. 2010).....	8

<i>Harris County Appraisal Dist. v. United Investors Realty Trust</i> , 47 S.W.3d 648, 651 (Tex. App. — Houston [14th Dist.] 2001, <i>pet. denied</i>).....	4
<i>Herrera v. Seton N.W. Hosp.</i> , 212 S.W.3d 452, 460-61 (Tex. App. — Austin 2006, <i>no pet.</i>).....	6
<i>Hotze v. City of Houston</i> , 339 S.W.3d 809, 813-14 (Tex. App. — Austin 2011, <i>no pet.</i>).....	7
<i>In re Bay Area Citizens Against Lawsuit Abuse</i> , 982 S.W.2d 371, 381 (Tex. 1998) (orig. proceeding).....	43
<i>Johnson & Johnson Med. v. Sanchez</i> , 924 S.W.2d 925, 927 (Tex. 1996).....	2
<i>Keating v. Federal Elec. Comm’n</i> , 131 S.Ct. 553 (2010).....	17
<i>Little v. United States</i> , 331 F.2d 287, 293 (8th Cir. 1964).....	31
<i>Long Beach Area Chamber of Commerce v. City of Long Beach</i> , 603 F.3d 684, 695 (9th Cir.), cert. denied, 131 S.Ct. 392 (2010).....	17
<i>Matter of Thomas</i> , 651 A.2d 1063, 1065 (N.J. Super. Ct. 1995).....	31
<i>Maynard v. Cartwright</i> , 486 U.S. 356, 361, 108 S.Ct. (1998).....	27
<i>Methodist Healthcare Sys. of San Antonio, Ltd., L.L.P. v. Rankin</i> , 307 S.W.3d 283, 285 (Tex. 2010).....	6
<i>Miles v. State</i> , 241 S.W.3d 28, 34 (Tex. Crim. App. 2007).....	40
<i>Missouri Pacific Railway v. Humes</i> , 115 U.S. 512, 522–23, 6 S.Ct. 110, 29 L.Ed. 463 (1885).....	23
<i>MMP, Ltd. v. Jones</i> , 710 S.W.2d 59, 60 (Tex. 1986).....	2
<i>National Ass’n for the Advancement of Colored People v. State of Alabama ex rel. Peterson</i> , 357 U.S. 449, 462-63, 78 S.Ct. 1163 (1958).....	37

<i>New York Times Co. v. Sullivan</i> , 376 U.S. 254, 84 S.Ct. 710 (1964).....	38
<i>Nixon v. Shrink Mo. Gov't PAC</i> , 528 U.S. 377, 387-88, 120 S.Ct. 897 (2000).....	8
<i>Osterberg v. Peca</i> , 12 S.W.3d 31, 41-55 (Tex. 2000).....	10, 14, 18, 22-23
<i>Railroad Retirement Bd. v. Dusquene Whse Co.</i> , 326 U.S. 446, 448-49, 66 S.Ct. 238 (1946).....	30
<i>Ragsdale v. Progressive Voters League</i> , 790 S.W.2d 77, 84-85 (Tex. App. — Dallas).....	22
<i>Randall's Food Mkts. v. Johnson</i> , 891 S.W.2d 640, 644 (Tex. 1991).....	2
<i>Regan v. Taxation with Representation of Wash.</i> , 461 U.S. 540, 103 S.Ct. 1997 (1983).....	42
<i>Reves v. Ernst & Young</i> , 507 U.S. 170, 179, 113 S.Ct. 1163 (1993).....	31
<i>Samuelson v. LaPorte Community Sch. Corp.</i> , 526 F.3d 1046, 1051 (7th Cir. 2008).....	35
<i>Satterfield v. Crown Cork & Seal Co., Inc.</i> , 268 S.W.3d 190, 202 (Tex. App. — Austin 2008, no pet.)	4
<i>Securities & Exch. Comm'n v. Dumaine</i> , 218 F.2d 308, 314-15 (1st Cir. 1954), cert. denied, 349 U.S. 929, 75 S.Ct. 771 (1955).....	31
<i>Securities & Exch. Comm'n v. Zanford</i> , 535 U.S. 813, 816 122 S.Ct. 1899 (2002) (Securities Act).....	30
<i>Sinkker v. Railway Labor Executives' Ass'n</i> , 489 U.S. 602, 614, 109 S.Ct. 1402 (1989)	40
<i>Southeastern Promotions, Ltd. v. Conrad</i> , 420 U.S. 546, 554, 95 S.Ct. 1239 (1975)	34
<i>Speechnow.org v. Federal Elec. Comm'n</i> , 599 F.3d 686, 695 (D.C. Cir.)	17

<i>State v. Newman</i> , 696 P.2d 856, 864 (Idaho 1985).....	33
<i>Stockton v. Offenbach</i> , 336 S.W.3d 610, 618 (Tex. 2011).....	6
<i>Sweezy v. New Hampshire</i> , 354 U.S. 234, 77 S.Ct. 1203 (1957).....	35, 36
<i>Test Master Educational Svcs., Inc. v. Singh</i> , 428 F.3d 559, 579 (5th Cir. 2005), cert. denied, 547 U.S. 1055, 126 S.Ct. 1662 (2006).....	34
<i>Texas Boll Weevil Eradication Fnd., Inc. v. Lewellen</i> , 952 S.W.2d 454, 463 (Tex. 1997).....	6
<i>Texas Employment Comm'n v. Remington York, Inc.</i> , 948 S.W.2d 352, 357 (Tex. App. — Dallas 1997, no pet.).....	6
<i>Texas Mun. League Intergovernmental Risk Pool v. Texas Workers' Compensation Comm'n</i> , 74 S.W.3d 377, 381 (Tex. 2002).....	7
<i>Texas Nat'l Guard Armory Bd. v. McCraw</i> , 126 S.W.2d 627, 634 (Tex. 1939).....	6
<i>Texas Workers' Compensation Comm'n v. Garcia</i> , 893 S.W.2d 504, 518 n. 16 (Tex. 1995).....	5
<i>Thalheimer v. City of San Diego</i> , 645 F.3d 1109, 1125 (9th Cir. 2011).....	17
<i>Tily B., Inc. v. City of Newport Beach</i> , 81 Cal.Rptr.2d 6, 23-24 (Ct. App. 1998)..	31
<i>Trapp v. Shell Oil Co.</i> , 198 S.W.2d 424, 440 (Tex. 1946).....	7
<i>Union Oil Co. of Cal. v. Hertel</i> , 411 N.E.2d 1006, 1008 (Ill. Ct. App. 1980).....	40
<i>United States v. American Union Transport</i> , 327 U.S. 437, 442-43, 66 S.Ct. 644 (1946) (Shipping Act).....	30
<i>United States v. Baggott</i> , 463 U.S. 476, 479, 103 S.Ct. 3164 (1983) (Internal Revenue Code).....	30

<i>United States v. Campaz-Guerrero</i> , 2011 WL 1522386 at * 2-3 (11th Cir. Apr. 22, 2011), cert. filed.....	33
<i>United States v. Jacobson</i> , 466 U.S. 109, 113, 104 S.Ct. 1652 (1984).....	41
<i>United States v. Norton</i> , 250 F.2d 902, 908-09 (5th Cir. 1958).....	31
<i>United States v. Pryba</i> , 674 F.Supp. 1504, 1512 (E.D. Va.1987)), appeal dism'd, 881 F.2d 1081 (8th Cir.1989).....	23
<i>United States v. Urlacher</i> , 979 F.2d 935, 939 (2nd Cir. 1992).....	33
<i>United States v. Williams</i> , 553 U.S. 285, 292-93, 128 S.Ct. 1830 (2008).....	26
<i>Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.</i> , 455 U.S. 489, 494, 102 S.Ct. 1186 (1982).	26
<i>Walker v. Gutierrez</i> , 111 S.W.3d 56, 66 (Tex. 2003).....	7
<i>Wilson v. Andrews</i> , 10 S.W.3d 663, 670 (Tex. 1999).....	5
<i>Women’s Med. Ctr. of N.W. Houston v. Bell</i> , 248 F.3d 411, 421 (5th Cir. 2001)..	25
 OTHER	
Tex. Bus. Org. Code § 22.352.....	41
Texas Election Code.....	2, 4, 9
Tex. Elec. Code § 251.001,	11, 27

(hereinafter “KSP”), Plaintiffs herein, and in support whereof would respectfully show unto the Honorable Court as follows:

I.

Introduction

Although this case has a rather convoluted procedural history, the relevant facts are straightforward. The Defendants raised and spent money in violation of provisions of the Texas Election Code. The Defendants, relying on an unreasonably expansive reading of a single recent Supreme Court case, have taken it on themselves to abrogate these statutes, claiming they are unconstitutional. The Plaintiffs have sued to enforce the laws, and now seek a determination from the Court that these laws are constitutional so the Defendants may be punished for breaking them.

II.

Summary Judgment Standard

The Plaintiffs seek a traditional and no-evidence summary judgment pursuant to Tex. R. Civ. Pro. 166a(c). To prevail on their request for a traditional summary judgment, the Plaintiffs must either negate one element of the Defendants’ claims or establish they are entitled to judgment as a matter of law on their affirmative defenses. Tex. R. Civ. Pro. 166a(c); *Randall’s Food Mkts. v. Johnson*, 891 S.W.2d 640, 644 (Tex. 1991). The Plaintiffs can do this by showing there are no genuine issues of material fact and that they are entitled to judgment as a matter of law. *Johnson & Johnson Med. v. Sanchez*, 924 S.W.2d 925, 927 (Tex. 1996); *MMP, Ltd. v. Jones*, 710 S.W.2d 59, 60 (Tex. 1986). As

will be expanded on below, the Plaintiffs are aided in their efforts by the presumption of constitutionality the Court must apply in this case. *Brooks v. Northglen Ass'n*, 141 S.W.3d 158, 169 (Tex. 2004).

III.

Summary Judgment Evidence

In support of this Motion the Plaintiffs rely on the attached evidence, on the arguments and authorities presented herein and at the hearing on this matter, and on the current pleadings on file in this case, of which the Plaintiffs ask the Court to take judicial notice. The following exhibits are incorporated herein by reference:

Exhibit "A" Affidavit of Ann Bennett

Exhibit "B" Affidavit of Gerald Birnberg

Exhibit "C" Affidavit of Anthony Gutierrez

Exhibit "D" Documents concerning KSP activities

Exhibit "E" Two videos produced by KSP –Filed with Court on Compact
Disks

Exhibit "F" Rule 11 including the Stipulation of Parties

IV.

Statement of the Case/Statement of Facts

The attached evidence proves KSP, including the stipulations of the parties contained in the attached Rule11, engaged in political activities that had the purpose and/or effect of altering or influencing election outcomes. Money and in-king

made. TDP filed suit to collect statutory damages and attorneys fees under the Texas Election Code. KSP has admitted to undertaking activity regulated under the Code but has instead claimed the applicable statutes are unconstitutional. Cross-Motions for Summary Judgment are being submitted to obtain a final ruling on the Constitutionality issues. TDP requests the Court enter a final judgment disposing of all the Constitutionality defenses and affirmative relief request by KSP.

V.

Arguments and Authorities

A. Determining the Constitutionality of Statutes

Although there are numerous doctrines intended to allow courts to avoid deciding issues of constitutionality unnecessarily, when these doctrines do not operate it is the obligation of a court to examine the constitution and determine whether something therein shows that a given statute is unconstitutional, *Satterfield v. Crown Cork & Seal Co., Inc.*, 268 S.W.3d 190, 202 (Tex. App. — Austin 2008, no pet.), in light of relevant and controlling constitutional provisions. *Harris County Appraisal Dist. v. United Investors Realty Trust*, 47 S.W.3d 648, 651 (Tex. App. — Houston [14th Dist.] 2001, pet. denied). This is one of those cases: it is impossible for the Plaintiffs to pursue their claims against the Defendants for violating various statutes found in the Election Code without the Court first determining whether the statutes are constitutional.¹

¹ KSP refuses to answer meaningful discovery concerning their activities, fundraising and expenditures until their constitutionality arguments are resolved.

1. Claims for Facial and As-Applied Unconstitutionality

When challenging the constitutionality of a statute, a litigant must show the statute is either facially unconstitutional or that it is unconstitutional as applied. *Texas Workers' Compensation Comm'n v. Garcia*, 893 S.W.2d 504, 518 n. 16 (Tex. 1995); *Geeslin v. State Farm Lloyds*, 255 S.W.3d 786, 794 (Tex. App. — Austin 2008, no pet.). The fundamental difference between the two is that a facial constitutional challenge asserts a statute is always unconstitutional in all its applications, whereas an as-applied challenge involves the constitutionality of the application of the statute under a particular set of facts. *City of Corpus Christi v. Public Util. Comm'n of Tex.*, 51 S.W.3d 231, 240-41 (Tex. 2001). These two different kinds of constitutional challenges are evaluated differently by the courts.

A finding of facial unconstitutionality is a *rara avis*, because it requires finding there is no circumstances where the statute may be applied constitutionally. *Wilson v. Andrews*, 10 S.W.3d 663, 670 (Tex. 1999). Because it will result in the complete invalidation of the statute, the burden of proving the facial unconstitutionality of a statute has been described as a “heavy” one. *Garcia*, 893 S.W.2d at 518 and n. 16; *Combs v. STP Nuclear Operating Co.*, 239 S.W.3d 264, 272 n. 8 (Tex. App. — Austin 2007, pet. denied).

A finding of as-applied unconstitutionality is somewhat more common because the determination in such a case is entirely fact-based, avoiding the hypothetical musings typical of a claim of facial unconstitutionality. When deciding an as-applied challenge,

courts do not speculate about how the statute does or does not operate in practice, but rather they must consider it as it is written, *FM Properties Operating Co. v. City of Austin*, 22 S.W.3d 868, 873 (Tex. 2000); *Barshop v. Medina County Underground Water Conservation Dist.*, 925 S.W.2d 618, 626-27 (Tex. 1996), so the abstract possibility that the statute could be applied in an unconstitutional way under different facts is irrelevant. *Texas Boll Weevil Eradication Fnd., Inc. v. Lewellen*, 952 S.W.2d 454, 463 (Tex. 1997).

2. Presumption of Constitutionality

“A statute is presumptively constitutional,” *Brooks*, 141 S.W.3d at 170, and so when reviewing a statute, courts are required to begin with a presumption of constitutionality. Tex. Gov’t Code § 311.021(1); *Stockton v. Offenbach*, 336 S.W.3d 610, 618 (Tex. 2011); *Herrera v. Seton N.W. Hosp.*, 212 S.W.3d 452, 460-61 (Tex. App. — Austin 2006, no pet.). In addition to this presumption, courts are also charged with interpreting statutes as constitutional, meaning if there is any way for a court to find a challenged statute is constitutional it must do so. *City of Pasadena v. Smith*, 292 S.W.3d 14, 19 (Tex. 2009); *City of Houston v. Clark*, 197 S.W.3d 314, 320 (Tex. 2006). Courts “need not exert their ingenuity to find reasons for holding the law invalid,” *Texas Nat’l Guard Armory Bd. v. McCraw*, 126 S.W.2d 627, 634 (Tex. 1939); accord, *Methodist Healthcare Sys. of San Antonio, Ltd., L.L.P. v. Rankin*, 307 S.W.3d 283, 285 (Tex. 2010), and the fact reasonable minds can differ on the constitutionality of a statute is insufficient basis for finding it unconstitutional. *Methodist Healthcare Sys. of San Antonio*, 307 S.W.3d at 285. Put more simply, “[a] statute should not be annulled by the courts merely

because doubts may be raised as to its constitutionality.” *Ex parte Austin Indep. Sch. Dist.*, 23 S.W.3d 596, 600 (Tex. App. — Austin 2000, pet. ref’d).

3. Burden of Proof

a. Generally

Because the Court must presume the challenged statutes are constitutional, the burden of proving they are unconstitutional must be borne by the Defendants. *Walker v. Gutierrez*, 111 S.W.3d 56, 66 (Tex. 2003); *Texas Mun. League Intergovernmental Risk Pool v. Texas Workers’ Compensation Comm’n*, 74 S.W.3d 377, 381 (Tex. 2002); *Hotze v. City of Houston*, 339 S.W.3d 809, 813-14 (Tex. App. — Austin 2011, no pet.). This showing must be made “beyond a reasonable doubt,” a high standard. *Trapp v. Shell Oil Co.*, 198 S.W.2d 424, 440 (Tex. 1946); *Texas Employment Comm’n v. Remington York, Inc.*, 948 S.W.2d 352, 357 (Tex. App. — Dallas 1997, no pet.).

b. In a First Amendment Context

The Defendants will likely claim the foregoing recitation of the standard is incorrect, and insist because they have claimed their constitutional rights are being violated the correct standard is heightened, perhaps rising even to the level of “strict scrutiny.” If this assertion is made it should be rejected even if the Court accepts that the Defendants’ First Amendment claims impose a different burden than the one announced above.

In a First Amendment context, the propriety of laws restricting the contribution of funds as election-related speech have been treated differently than laws restricting

campaign expenditures, because restrictions on expenditures are seen as imposing “significantly more severe restrictions on protected freedoms” than do laws governing political contributions. *Buckley v. Valeo*, 424 U.S. 1, 23, 96 S.Ct. 612 (1976); *Green Party of Conn. v. Garfield*, 616 F.3d 189, 198 (2nd Cir. 2010). Because statutes governing contributions have less effect on speech, they are afforded “relatively complaisant review under the First Amendment.” *Federal Election Comm’n v. Beaumont*, 539 U.S. 146, 161, 123 S.Ct. 2200 (2003). Therefore, when passing on the constitutionality of such laws, courts do not ask if they are *narrowly* tailored to serve a *compelling* governmental interest, but rather ask whether they are *closely drawn* to match a *sufficiently* important interest. *Beaumont*, 539 U.S. at 162; *Nixon v. Shrink Mo. Gov’t PAC*, 528 U.S. 377, 387-88, 120 S.Ct. 897 (2000); *Green Party*, 616 F.3d at 198-99.

If this sounds like a less-rigorous standard than strict scrutiny that is because it is less rigorous. This lower standard applies in all contribution cases, regardless of whether the law in question merely restricts political contributions in some way or imposes an outright ban. *Beaumont*, 539 U.S. at 162; *Green Party*, 616 F.3d at 199. Recent Supreme Court cases do nothing to change the applicability of this standard, *Citizens United*, ___ U.S. ___, 130 S.Ct. 876, 909 (2010) (litigant assailing limitations on independent campaign expenditures by corporation “has not suggested that the Court should also reconsider whether contribution limits should be subjected to rigorous First Amendment scrutiny”), and it continues to apply this standard in reviewing laws having First

Amendment implications. *See, e.g., Doe v. Reed*, ___ U.S. ___, 130 S.Ct. 2811, 2818 (2010).

4. Constitutional Challenges Advanced by the Defendants

The Defendants' claims challenge the constitutionality of a series of statutes found in the Texas Election Code. Some of the challenged statutes are relevant to the claims made by the Plaintiffs, while others are not. The challenged statutes that relate to the claims the Plaintiffs make, and the paragraphs where these challenges are found, are as follows:

- Section 251.001, ¶¶ 99-109, 110-122, 123-133, 134-141, 142-151;²
- Section 253.031, ¶¶ 165-179;
- Section 253.094, ¶¶ 84-98, 189-200;
- Section 253.104, ¶¶ 84-98;
- Section 253.131, ¶¶ 59-83;
- Section 253.132, ¶¶ 59-83; and
- Section 273.081, ¶¶ 59-83.

B. Prior Determinations that Challenged Statutes are Constitutional

Before addressing the arguments made in the Defendants' Counterclaim on their merits, the Plaintiffs will begin by noting some of the statutes the Defendants claim are unconstitutional have, in fact, been found to be constitutional. Specifically, courts have

² The Defendants challenge different sub-sections of Section 251.001 in different parts of their Counterclaim.

already found the following statutes to be constitutional: Section 251.001, *Ex parte Ellis*, 309 S.W.3d 71, 82-92 (Tex. Crim. App. 2010), Section 253.094, *Ellis*, 309 S.W.3d at 82-92; *Castillo v. State*, 59 S.W.3d 357, 359-60 (Tex. App. — Dallas 2001, pet. ref'd) and Section 253.131. *Osterberg v. Peca*, 12 S.W.3d 31, 41-55 (Tex. 2000). In seeking a contrary determination the Defendants ask the Court to overrule these authorities.

C. Constitutionality of Challenged Statutes

Broadly, the statutes the Defendants challenge fall into one of three broad categories:

- statutes requiring something about money raised or spent in connection with certain campaigns or elections to be reported, but which permit money to be raised or spent without limitation if it is reported, such as Section 253.031;
- statutes forbidding certain entities from raising or spending money in a certain way, regardless of whether it is reported or not, including Section 253.094 and 253.104; and
- statutes intended to either enforce these restrictions or to punish those who violate them, including be enforced, including Sections 253.131, 253.132 and 273.081.

Each of these different category of statutes will be addressed in turn.

1. Statutes Governing Reporting and Reporting of Contributions

The first of these categories of statutes are those which impose a requirement on the Defendants to make and file certain reports regarding monies received and expended for various political purposes.

a. What Sections 253.001 and 253.031 Provide

Section 253.031 prohibits (subject to certain limitations not at issue in this case) the receipt or making of campaign and political contributions by a “political committee” (defined as groups whose “principal purpose” is accepting political contributions and making political expenditures, Tex. Elec. Code § 251.001(12), and including political parties, Tex. EAO 320 (Apr. 19, 1996) (activities of political party to raise money to support its candidates for office were activities of “political committee”)), unless it has appointed a campaign treasurer. Tex. Elec. Code §§ 253.031(a) - (c). Relatedly, Section 253.001 (a statute the Defendants violated, but whose constitutionality they do not challenge) prohibits making political contributions and political expenditures in the name of another, without disclosing the identity of the person actually making the disclosure. Tex. Elec. Code §§ 253.001(a), (b).

These reporting statutes require the disclosure and reporting of such payments by the campaign treasurer, the person who is largely responsible for maintaining records about matters that need to be reported under Chapter 254, the general report and disclosure statute. Tex. Elec. Code §§ 254.001(b), (c). Under any analysis the Court may care to conduct, these “reporting” statutes are constitutional.

b. Disclosure and Reporting Statutes are Constitutional

In its arguments, the Defendants have given pride of place to the Supreme Court’s recent decision in *Citizens United v. Federal Election Commission*. In fact, other than general authorities recognizing generally that free speech is important and political free speech particularly important (statements with which the Plaintiffs have no quarrel),

Citizens United is the sole basis of most of the Defendants' constitutional claims. Unfortunately for the Defendants, *Citizens United* itself recognizes that statutes permitting the making of a political contribution on the condition that it be reported or disclosed, and which only prohibit the flow of funds only if the required report or disclosure is not made, are constitutional. In order to understand why it first is necessary to understand a case decided thirty-five years ago that was discussed at length in *Citizens United*, *Buckley v. Valeo*.

Buckley was a broad constitutional challenge to various provisions of federal election law enacted in the wake of the Watergate scandal. *Buckley*, 424 U.S. at 6-7. Although *Buckley* addressed many issues, its three broad holdings are relevant to the issues presented in this case:

- statutory limitations on contributions to a political campaign were constitutional, because they represented only a “marginal restriction” on the expressive rights of a contributor, but served the important purpose of preventing corruption, *Buckley*, 424 U.S. at 20-29;
- statutory limitations on “independent expenditures” made on behalf of some cause or candidate (i.e., expenditures that were not controlled by or coordinated with any given candidate or party) were not constitutional, because it represented a heavy burden of the right to express oneself freely about the issues of the day, and that concerns about corruption were lessened because of the lack of any connection between the person spending the money and a person who might receive some incidental benefit thereby, *Id.* at 39-56; and
- statutory disclosure and reporting requirements of contributions made were constitutional, because they served the important purpose of giving the electorate information about election spending, allowing them to cast an informed vote for a candidate or on an issue and constituting “a reasonable and minimally restrictive method of

furthering First Amendment values by opening the basic processes of [the] election system to public view.” *Id.* at 66-82.

It is against the background from *Buckley* and its progeny that *Citizens United* was decided.

In *Citizens United*, the Supreme Court once again found unconstitutional a statutory limitation on independent political expenditures, this time by a corporation. *Citizens United*, 130 S.Ct. at 913. However, the Court went on to find that a reporting requirement imposed by federal election statutes that would apply to corporations making such expenditures — requiring those making certain independent political expenditures to identify who made the expenditure, the amount, the election it was intended to influence and “the names of certain contributors” — was constitutional. *Id.* at 914 (*citing* 2 U.S.C. § 434(f)(2)). The rationale for this part of the Court’s holding is worth quoting at length:

Disclaimer and disclosure requirements may burden the ability to speak, but they impose no ceiling on campaign-related activities, and do not prevent anyone from speaking. The Court has subjected these requirements to exacting scrutiny, which requires a substantial relation between the disclosure requirement and a “sufficiently important governmental interest.

In *Buckley*, the Court explained that disclosure could be justified based on a governmental interest in providing the electorate with information about the sources of election-related spending. The *McConnell* Court applied this interest in rejecting facial challenges to [a federal campaign finance law]. There was evidence in the record that independent groups were running election-related advertisements while hiding behind dubious and misleading names. The Court therefore upheld [the law] on the ground that they would help citizens make informed choices in the political marketplace. ...

The Court has explained that disclosure is a less restrictive alternative to more comprehensive regulations of speech. In *Buckley*, the Court upheld a

disclosure requirement for independent expenditures even though it invalidated a provision that imposed a ceiling on those expenditures. In *McConnell*, three Justices who would have found [a federal campaign finance law] to be unconstitutional nonetheless voted to uphold [its] disclosure and disclaimer requirements. And the Court has upheld registration and disclosure requirements on lobbyists, even though Congress has no power to ban lobbying itself.

Id. at 914-15 (all but non-parenthetical citations and quotations omitted).

In this case all the Court needs to do with respect to Section 253.031 of the Election Code is find that because it addresses issues of disclosure and reporting, it is constitutional under the decisions in *Citizens United* and *Buckley*, as well as under the Texas Supreme Court's decision in *Osterberg*, 12 S.W.3d at 42.

c. Possibility of an As-Applied Challenge

The only exception the Supreme Court has recognized to the constitutionality of these reporting requirements was if the challenge was an as-applied challenge: an as-applied challenge could be upheld if there was a "reasonably probability" that the disclosure of some person's name in such a filing "will subject them to threats, harassment, or reprisals from either Government officials or private parties." *Citizens United*, 130 S.Ct. at 914; *Buckley*, 424 U.S. at 74. The Plaintiffs believe that the possibility that any of the Defendants (or those who contribute money to them) would suffer any harassment from a state as deeply red as Texas for supporting a group with beliefs on the far right wing of the Republican Party vanishingly slim, and despite an enormously lengthy counterclaim the Defendants never even suggest a fear that those named in required campaign filings might be harassed by private parties. In any case, if

the Defendants wish to raise a fact issue on this matter sufficient to present an as-applied constitutional challenge, it is their burden to do so.

2. Statutes Governing Coordinated Political Expenditures

The second category of challenged statutes are those limiting the right of corporations like King Street Patriots to make certain kinds of contributions.

a. What Sections 253.094 and 253.104 Provide

The first of these is Section 253.094 of the Election Code, which provides a corporation may only make political contributions in a way authorized by Chapter 253, Subchapter D of the Election Code. Tex. Elec. Code § 253.094(a). This chapter, in relevant part, allows corporations to make: (1) campaign contributions with no limit as to the amount, to a “political committee,” Tex. Elec. Code § 253.096; (2) direct campaign expenditures of up to \$100 with no reporting requirements, if the corporation is “not acting in concert with another person,” Tex. Elec. Code §§ 253.061, 253.097; and (3) direct campaign expenditures for any amount, if the corporation files the disclosures required by Chapter 254 and is “not acting in concert with another person.” Tex. Elec. Code § 253.062, 253.097. The second is Section 253.104, which allows corporations to contribute money to political parties to defray overhead and operating costs, or to fund its convention. Tex. Elec. Code § 253.104(a), 257.002. Additionally, Section 253.104 limits even these contributions, prohibiting them from being made within 60 days of the date of an election. Tex. Elec. Code § 257.104(b).

The constitutionality of the reporting requirements imposed by these statutes has been addressed above, but the other limitations (on amounts that may be spent without reporting, the spending of unlimited amounts only with certain entities or restrictions to which amounts spent may be put) have not yet been addressed. Fortunately, the *Buckley/Citizens United* framework discussed above allows the Court to find these statutes are constitutional, also.

b. Limitations on Direct Contributions are Constitutional

As set forth above, *Buckley* distinguished among three kinds of statutes governing money spent in connection with elections: (1) statutes governing money spent directly on candidates; (2) statutes governing “independent expenditures,” i.e., money spent on issues generally but not given to or subject to the control of a candidate; and (3) reporting and disclosure statutes. Just as the reporting and disclosure statutes discussed above were found to be constitutional, so to were statutory limitations on money spent for the direct benefit of a given candidate, party or campaign.

Buckley upheld the statutory limitations on amounts people could contribute directly to a political candidate. The basis of this decision was that while such limitations may hamper free speech, they are a proper way to serve another important goal, the prevention of both apparent and actual political corruption. *Buckley*, 424 U.S. at 25-26. The Court accepted the argument that unlimited campaign contributions are or will be perceived to be a bribe to the candidate, i.e., money given to secure what the Supreme Court has called “a political *quid pro quo*,” and therefore may properly be limited

because no one can reasonably argue it is proper to bribe candidates or officer-holders to do their bidding. *Id.* at 26. It is this danger of *quid pro quo* corruption that differentiates statutory limitations on amounts given to candidates from the limitations on independent political contributions that were struck down. *Id.* at 47-48; *accord*, *Citizens United*, 130 S.Ct. at 901-02.

Whether a contribution is subject to limitation because it is direct or not subject to limitation because it is independent is determined by the reality of the situation. Beginning in *Buckley* the Supreme Court recognized that if a campaign expenditure is subject to the control of the person or entity to whom it is given, or if it is spent in coordination with the efforts of the candidate or party, that expenditure cannot qualify as an “independent expenditure,” *Buckley*, 424 U.S. at 46-47, a sensible conclusion given that something subject to the control or direct use of another cannot be said to be “independent.” *See, e.g., Citizens United*, 130 S.Ct. at 910 (“By definition, an independent expenditure is political speech presented to the electorate that is not coordinated with a candidate”). Therefore, under federal law, the regulation of an expenditure that is subject to the control of the person who benefits from it, or which is made in coordination with the beneficiary’s own spending, is constitutionally permissible. *Thalheimer v. City of San Diego*, 645 F.3d 1109, 1125 (9th Cir. 2011); *Long Beach Area Chamber of Commerce v. City of Long Beach*, 603 F.3d 684, 695 (9th Cir.), *cert. denied*, 131 S.Ct. 392 (2010); *see also Speechnow.org v. Federal Elec. Comm’n*, 599 F.3d 686, 695 (D.C. Cir.), *cert. denied sub nom Keating v. Federal Elec. Comm’n*,

131 S.Ct. 553 (2010) (recognizing that *Citizens United* did nothing to change the long-standing rule that direct contributions were constitutionally subject to regulation).

What federal law refers to as an “independent expenditure” Texas law calls a “direct campaign expenditure.” *Osterberg*, 12 S.W.3d at 36 n. 2; *see also* Tex. Elec. Code §§ 253.061, 253.062 (allowing direct campaign expenditures, but only if they are not made “in concert with another,” i.e., they are what federal law calls “independent”). *Buckley* and *Citizens United* tell us that a state law restricting actual direct campaign expenditures may be constitutionally infirm. However, if the monies the Defendants spent are not “direct campaign expenditures,” but rather are what Texas law calls “campaign contributions,” i.e., a contribution given to a candidate or party for use in a campaign, Tex. Elec. Code §§ 251.001(3), (7), (8), then they may be constitutionally subject to regulation and limitation.

c. Texas Law is in Accord with *Buckley*

In this case the challenged laws do not affect what the Defendants did in an unconstitutional way.

Beginning with Section 253.096 of the Election Code, it clearly allows corporations to make unlimited donations to any political committee or political party they wish. It is hard to advance a First Amendment complaint about being allowed to spend as much money as one wants, and the fact the law restricts the recipient of such funds or the use to which these monies may be put by a proper recipient does not change this analysis. Tex. Elec. Code §§ 253.096, 253.104. As set forth above when a person

gives money in direct support of a candidate or campaign, the First Amendment does not prohibit regulation of this contribution, as they are exactly the kind of contribution leading to the kind of *quid pro quo* corruption recognized in *Buckley*. Put in the language of Texas election law, this provision — permitting direct payment of money to political committees for use in a campaign — is a “campaign contribution” not a “direct campaign expenditure,” and therefore may be permissible regulated.

With respect to the limitations imposed by Sections 253.097, the Defendants’ position appears to be that they cannot be subject this law because it limits their ability to make “direct campaign expenditures.” This assumption is wrong, in two particulars.

First, Section 253.097 makes clear that corporations can make unlimited direct campaign expenditures if they comply with the law, which requires only two things. The first is that the expenditures be truly independent, and not made “in concert with another person.” Tex. Elec. Code § 253.097. This requirement is necessary to ensure the expenditure is truly an independent one, a requirement in direct accord with Supreme Court precedent. The second requirement is that if the expenditure exceeds \$100 it be reported. This requirement is also permissible: *Citizens United* specifically found laws requiring disclosure and reporting constitutional, and so Texas law may constitutionally require the Defendants to make similar disclosures about their direct campaign contributions.

The second flaw in the Defendants’ assumption is that their expenditures do, in fact, qualify as “direct campaign expenditures.” Under Texas law, a direct campaign

expenditure is any “campaign expenditure” that does not qualify as a “campaign contribution.” Tex. Elec. Code § 251.001(8). A “campaign expenditure” is (reasonably enough) an expenditure made in connection with a campaign for office or to pass some law. Tex. Elec. Code § 251.001(7). A “campaign contribution” is money given to a candidate or political committee for use in connection with a campaign for office or to pass some law. Tex. Elec. Code § 251.001(3). Synthesizing the foregoing, a “direct campaign expenditure” is money spent to support a candidate or campaign that is not given to or spent in coordination with the candidate or party, a reading that accords with both the statutory definition and the federal courts’ understanding of what constitutes an “independent expenditure.” This, in turn, necessarily means that if money was, in fact, given to a candidate or party or was spent in coordination with that candidate or party, it cannot qualify as a “direct campaign expenditure.” This is what happened here.

A number of the things the Defendants did would not qualify as “direct campaign expenditures,” but rather qualified as “campaign contributions.” Specifically, the Defendants did the following:³

- expended money to train people they called “poll watchers,” and then provided a list of these “poll watchers” to the Republican Party (only), which then exercised its power under state law to appoint those people as their poll watchers;
- conducted “candidate forums” where the only persons allowed to

³ Each of these factual allegations are proven in each of the attachments therefore proving them conclusively. Indeed, in the Rule 11, KSP concedes the poll watchers they recruited and trained were appointed by the Republican Party. Democratic Party officials testify they were not offered the benefit of these poll watchers. Since only parties and candidates can appoint poll watchers under the Election Code, coordination is evident and proven.

participate were Republican candidates, effectively paying to provide their chosen candidate with a venue to campaign; and

- established both an office and a website that told voters to vote for particular Republican candidates.

Although some of these things could, in the appropriate circumstances, qualify as direct campaign expenditures if they were truly independent, in this case they were not. This being the case, the Defendants' constitutional challenges to the law must be rejected — because it can be constitutionally applied in some instances they cannot meet the high burden of proving it is facially unconstitutional, and the fact it arguably could be unconstitutional if it were applied to other persons who have acted differently fails to prove it is unconstitutional as applied under the facts of this case.⁴

In any case, the fact that one or more of these things may have, in fact, not been independent (because they were either the product of coordination between the Defendants and the individual candidates or the Republican Party or because the benefit of the monies the Defendants spent was given directly to the individual candidates or the Republican Party) means the Election Code could have been violated, the very thing the Plaintiffs have the right to learn through this suit. The Defendants cannot use the fact the First Amendment protects certain kinds of political expression (direct campaign expenditures) as a cloak to hide the existence of other kinds of political expression (campaign contributions) that are subject to regulation. To hold otherwise would render

⁴ If contributions are direct campaign contributions the law requires only constitutionally-permissible reporting, and if they are actually disguised campaign contributions then these contributions may be constitutionally regulated.

the Election Code a dead letter, and accept the Defendants’ “myopic” view that the Constitution exists only to protect them and what they want to do, and that the constitutional rights of all other Texans are of no interest or import. *Osterberg*, 12 S.W.3d at 45 (taking the petitioners and the dissent to task for a “myopic” view of the First Amendment, one that honored the rights of the petitioners but which ignored the right of others to full disclosure).

3. Statutes Providing for Enforcement

This leaves the third category of statutes, those providing the Plaintiffs with a private cause of action they may assert if the law has been violated and for an injunction against violating the law. Tex. Elec. Code §§ 253.131, 253.132, 273.081. On this issue the Plaintiffs can do no better than to quote at length from *Osterberg*, controlling authority that allows the Court to dispose of the Defendants’ assertion these enforcement provisions are unconstitutional:

We disagree with the Osterbergs’ contention that section 253.131 does not advance a sufficient state interest. When an individual breaks Texas’s campaign finance laws, this section allows a candidate to enforce those laws by seeking civil damages as a penalty. We agree with the Fifth Court of Appeals, which recognized that section 253.131 is designed to “deter violators and encourage enforcement by candidates and others directly participating in the process, rather than placing the entire enforcement burden on the government.” *Ragsdale v. Progressive Voters League*, 790 S.W.2d 77, 84–85 (Tex. App. — Dallas) (construing an earlier version of section 253.131), *aff’d in part and rev’d in part on other grounds*, 801 S.W.2d 880, 881 (Tex.1990). Because state resources for policing election laws are necessarily limited, in many cases section 253.131 is likely to provide the only viable means of enforcing reporting requirements. Preventing evasion of these important campaign finance provisions is a legitimate and substantial state interest. *Cf. Buckley v. Valeo*, 424 U.S. 1,

66–68, 76, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976) (preventing evasion of valid contribution limits is a substantial governmental interest).

Furthermore, that the person enforcing the law and receiving damages can be a private party rather than the State does not mean that section 253.131 adds additional restrictions on First Amendment rights. In *Missouri Pacific Railway v. Humes*, 115 U.S. 512, 522–23, 6 S.Ct. 110, 29 L.Ed. 463 (1885), the United States Supreme Court stated that

it is not a valid objection that the sufferer instead of the State receives [damages].... The power of the State to impose fines and penalties for a violation of its statutory requirements is coeval with government; and *the mode in which they shall be enforced, whether at the suit of a private party, or at the suit of the public, and what disposition shall be made of the amounts collected, are merely matters of legislative discretion.*

(emphasis added).

More recently, Justice O'Connor explained, "*Humes* teaches us that the identity of the recipient of a monetary penalty is irrelevant for purposes of determining the constitutional validity of the penalty." *Browning–Ferris Indus. v. Kelco Disposal, Inc.*, 492 U.S. 257, 299, 109 S.Ct. 2909, 106 L.Ed.2d 219 (1989) (O'Connor, J., concurring in part and dissenting in part). ...

The Osterbergs have not demonstrated how allowing a private party to help enforce the statute adds new and significant free-speech constraints independent of those already imposed by the statute's reporting requirements, which we have held are constitutional. Moreover, they submitted no evidence that the private enforcement provision had any chilling effect on the exercise of their First Amendment rights. The Osterbergs' challenge to section 253.131 thus misses the mark. *Cf. Alexander v. Thornburgh*, 713 F.Supp. 1278, 1290 (D. Minn.) (because the constitutionality of the underlying obscenity statute had been established, "the defendant's assertion that prosecution under RICO unconstitutionally chilled protected speech was unfounded" (discussing *United States v. Pryba*, 674 F.Supp. 1504, 1512 (E.D. Va.1987)), *appeal dismissed*, 881 F.2d 1081 (8th Cir.1989).

Osterberg, 12 S.W.3d at 49-50.

This logic is unassailable. *Buckely* and *Citizens United* recognize the Constitution permits states to regulate some aspects of election spending, and a statute to enforce such law cannot itself be any more of a limitation on speech than the laws themselves. Therefore, if a state enacts a constitutional election law, the fact the law can be enforced does not violate anyone's constitutional rights, rights that (by definition) do not exist with respect to the subject of the law. This is because right to enforce a constitutional law against those who violate it cannot be lost because the law being enforced deals with behavior that (in other circumstances) may be constitutionally protected. *See, e.g., Fort Wayne Books, Inc. v. Indiana*, 489 U.S. 46, 61, 109 S.Ct. 916 (1989) (fact RICO can be used to enforce obscenity laws did not make enforcement an unconstitutional violation of the defendant's First Amendment rights; rejecting claim that fact of enforcement would lead people to "self-censor" and refuse to deal in expressive materials that were constitutional meant laws could not be enforced); *accord, G.B. v. Rogers*, 703 F.Supp.2d 724, 730 (S.D. Ohio 2010) (fact new Ohio sex offender registration scheme requires person guilty of "pandering" to register did not make law unconstitutional because it might lead people who have not been charged with pandering to avoid legal activities out of fear this charge would be brought against them). This is especially where (as here) the enforcement provision is not the cause of the uncertainty about what is and is not permitted that the Defendants claim makes the law unconstitutional. *See, e.g., American Library Ass'n v. Barr*, 956 F.2d 1178, 1192 (D.C. Cir. 1992) (enactment of laws allowing

forfeiture of child pornography were not the cause of the alleged uncertainty whether a given image was or was not illegal). Here, if there is any question about what the Defendants are or are not permitted to do, this uncertainty is created by other provisions of the Election Code, and provisions for its enforcement are therefore not themselves unconstitutional.

4. Attacks on Definitions

Next, the Defendants seek to undermine significant portions of the Texas Election Code by claiming that the definitions of various terms, including the terms describing the various “contributions” and “expenditures” regulated by the Code. Broadly, the Defendants make two arguments with respect to all of these definitions: that they are overbroad and that they are too vague to be constitutionally enforced. Neither of these claims is correct.

a. Vagueness and Overbreadth Claims Generally

A law is unconstitutionally vague if and only if it fails to afford those it is intended to affect a reasonable opportunity to know what is required of them, or when it is so indefinite that any enforcement is necessarily arbitrary or discriminatory. *Women’s Med. Ctr. of N.W. Houston v. Bell*, 248 F.3d 411, 421 (5th Cir. 2001). If a law “forbids or requires the doing of an act in terms so vague that [persons] of common intelligence must necessarily guess at its meaning and differ as to its application” it cannot be enforced, *Connally v. General Constr. Co.*, 269 U.S. 385, 391, 46 S.Ct. 126 (1926), but if the law is sufficiently clear to give a person of reasonable intelligence notice of what is required or

prohibited, it is not unconstitutionally vague. *Grayned v. City of Rockford*, 408 U.S. 104, 108, 92 S.Ct. 2294 (1972); *Ford Motor Co. v. Texas Dep't of Transp.*, 264 F.3d 493, 509 (5th Cir. 2001).

A constitutional vagueness challenge takes one of two forms, the first of which is an overbreadth challenge. An overbreadth challenge asserts the law at issue prohibits a substantial amount of constitutionally-protected conduct. *Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 494, 102 S.Ct. 1186 (1982). In making this determination, courts must strike a balance between opposing social costs, and only strike down a law if its overbreadth is substantial. *United States v. Williams*, 553 U.S. 285, 292-93, 128 S.Ct. 1830 (2008) (rejecting argument that child pornography law was constitutionally overbroad). This is because a determination that has the effect of overturning laws which punish conduct defined as improper and even criminal is “strong medicine,” and so should not be “casually employed.” *Los Angeles Police Dep't v. United Reporting Pub. Co.*, 523 U.S. 32, 39, 120 S.Ct. 483 (1999).

Alternatively, even if a law is not overbroad, it may nevertheless be unconstitutional if it is so vague it cannot be understood, and that this vagueness is so through-going that it is “impermissibly vague in all its applications.” *Hoffman Estates*, 455 U.S. at 498. Such laws may be prohibited because they “impermissibly delegate[] basic policy matters to policemen, judges, and juries for resolution on an ad hoc and subjective basis ...” *Grayned v. City of Rockford*, 408 U.S. 104, 108-09, 92 S.Ct. 2294 (1972). In deciding whether a law is facially vague, courts must consider the construction

and interpretations of the law at issue, so as to see how it is understood. *Hoffman Estates*, 455 U.S. at 494 n. 5. Because facial vagueness is based on the idea that a person cannot know what the law allows or prohibits, if a reasonable person can read the law and know his conduct is at risk the law is not facially vague. *Maynard v. Cartwright*, 486 U.S. 356, 361, 108 S.Ct. (1998); *United States v. Clark*, 582 F.3d 607, 613 (5th Cir. 2009), *cert. denied*, 130 S.Ct. 1306 (2010).

b. What the Definitions Say

The first set of definitions the Defendants attack are those defining various kinds of “contributions” that can be made in an election context. “Contribution” is broadly defined as any transfer of “money, goods, services, or any other thing of value,” directly or indirectly, including certain loans. Tex. Elec. Code § 251.001(2). This broad definition is made applicable to elections through the definition of “political contribution,” defined as either a “campaign contribution or an officeholder contribution.” Tex. Elec. Code § 251.001(5). A “campaign contribution” is a contribution made to either a candidate or political committee that is “offered or given” for use in connection with a campaign for office or regarding a ballot measure. Tex. Elec. Code § 251.001(3). An “officeholder contribution” is one made to a person who holds office or to a political committee that is to defray costs the officeholder incurs in serving, but which cannot be paid for with public money. Tex. Elec. Code § 251.001(4).

The second set of definitions the Defendants assail defined “expenditures.” The broad definition of expenditure is “a payment of money or any other thing of value.” Tex.

Elec. Code § 251.001(6). An expenditure becomes a “political expenditure” when it qualifies as either a “campaign expenditure” or as an “officeholder expenditure.” Tex. Elec. Code § 251.001(10). There are two kinds of campaign expenditures: those made by “any person in connection with a campaign,” Tex. Elec. Code § 251.001(7), and “direct campaign expenditures,” which are those made in a way that they do not qualify as a “campaign contribution.” Tex. Elec. Code § 251.001(8). Finally, “officeholder expenditures,” which are (reasonably enough) defined as being the kind of expenditures that could be reimbursed by an officeholder contribution. Tex. Elec. Code § 251.001(9).

Finally, the Defendants object to the definitions of “political committee,” a group whose “principal purpose is to accept political contributions and make political expenditures, Tex.. Elec. Code § 251.001(12), and a “general-purpose committee,” a political committee formed to support multiple candidates and measures that are “unidentified.” Tex. Elec. Code § 251.001(14).⁵ The argument here appears to be that these definitions are not in and of themselves too vague, but rather that they incorporate definitions the Defendants claim are too vague. Counterclaim, ¶ 138.

c. None of these Definitions are Too Vague

The Defendants’ contention that these definitions are so vague as to be unconstitutional strikes the Plaintiffs as more hopeful than accurate.

⁵ This definition becomes more clear when compared to the definition of a “specific-purpose committee,” (one of the few definitions the Defendants do not challenge), which is a political committee formed to support or oppose specific candidates or issues. Tex. Elec. Code § 251.001(13). A general purpose committee is one with interests broader than a single candidate or issue (such as the Texas Democratic Party) whereas a specific-purpose committee is formed for a more limited purpose (such as any number of “Friends of” or “NIMBY” groups).

Beginning with the Defendants' overbreadth arguments, the purpose of defining contributions and expenditures the way they were defined was to allow Texas election law to distinguish between those kinds of contributions and expenditures that may permissible be regulated (such as those given to a particular candidate or party to use in an election) and those for which regulations are more limited (such as direct campaign expenditures). In order to do what *Buckley* says is permissible, the statutes must somehow explain what sources and funds may be subject to restrictions, and what sources and funds may not.

By way of specific example, Texas law specifically permits unlimited direct campaign contributions by corporations, subject only to a (constitutionally permissible) disclosure and reporting requirement. Tex. Elec. Code § 253.097. This statute permits all that is permitted (what federal law calls "independent expenditures" by corporations) and does not prohibit anything else. It is difficult to see the basis of the Defendants' overbreadth claim, which requires showing not only that a law (in this case the Election Code's definitions) sweeps with it a significant number of things it cannot properly regulate. If anything, the definitions of which the Defendants complain affirmatively *preclude* an overbreadth argument — by distinguishing between things subject to regulation and things not subject to regulation, the definitions permit the kind of distinctions between direct contributions subject to regulation and independent expenditures, which are not.

Nor are these definitions too vague to be understood at all, meaning they are not

facially invalid. Any person of average intelligence should be able to sit down, read them, and understand what is and is not allowed. For example, the definition of “campaign contribution” makes clear it is a contribution (money or goods) made to a candidate (the person running for office, named on the ballot) or political committee (a group organized to take or spend this money) in connection with a campaign (the candidate’s quest for office).

d. Specific Vagueness/Overbreadth Claims

In asserting these claims the Defendants make a series of specific attacks on words found in the challenge they claim are too vague to be understood or are overbroad.

They assert the phrase “in connection with” (as in a contribution to be used “in connection with a campaign for elective office,” Tex. Elec. Code § 251.001(3)) is just too hard for them to understand or interpret. Counterclaims, ¶¶ 120, 130, 132. This is true only if the Court will not apply a reasonable interpretation of the phrase. For example, the meaning of “in connection with” a campaign is straightforward: if the candidate is running for office and the contribution is to help with that it is “in connection with” his campaign. In fact, the phrase “in connection with” is commonly used in many different legal contexts, *see, e.g., Securities & Exch. Comm’n v. Zanford*, 535 U.S. 813, 816 122 S.Ct. 1899 (2002) (Securities Act); *United States v. Baggott*, 463 U.S. 476, 479, 103 S.Ct. 3164 (1983) (Internal Revenue Code); *United States v. American Union Transport*, 327 U.S. 437, 442-43, 66 S.Ct. 644 (1946) (Shipping Act); *Railroad Retirement Bd. v. Dusquene Whse Co.*, 326 U.S. 446, 448-49, 66 S.Ct. 238 (1946) (Railroad Retirement

Act),⁶ and so finding the phrase is too vague to enforce could require all of these statutes to be invalidated or rewritten.

An almost identical analysis applies to their complaint that they cannot figure out the meaning of the phrase “direct or indirect,” used to describe how contributions are made. Tex. Elec. Code § 251.00(2). The phrase “direct or indirect” also appears throughout the law, *see, e.g., Matter of Thomas*, 651 A.2d 1063, 1065 (N.J. Super. Ct. 1995); *Crucible, Inc. v. Stora Kopparbergs Berslags AB*, 403 F.Supp. 9, 12 (W.D. Pa. 1975); *Little v. United States*, 331 F.2d 287, 293 (8th Cir. 1964); *Securities & Exch. Comm’n v. Dumaine*, 218 F.2d 308, 314-15 (1st Cir. 1954), *cert. denied*, 349 U.S. 929, 75 S.Ct. 771 (1955), as does the related phrase “directly or indirectly.” *See, e.g., Central Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 175-76, 114 S.Ct. 1439 (1994); *Reves v. Ernst & Young*, 507 U.S. 170, 179, 113 S.Ct. 1163 (1993); *del Canto v. ITT Sheraton Corp.*, 965 F.Supp. 927, 932 (D.D.C. 1994), *aff’d*, 70 F.3d 637 (D.C. Cir. 1995); *United States v. Norton*, 250 F.2d 902, 908-09 (5th Cir. 1958). The only time either of these phrases or their constituent terms has been challenged on vagueness grounds the court found a reasonable person would understand them. *Tily B., Inc. v. City of Newport Beach*, 81 Cal.Rptr.2d 6, 23-24 (Ct. App. 1998) (prohibition against “direct” payment of nude dancer was not unconstitutionally vague). If patrons of a nude bar can figure out the meaning of the word “direct” the Plaintiffs have every reason to hope the

⁶ These are the first four of 257 federal cases with a definition including the phrase “in connection with.”

Defendants can, also. The Court will find a reasonable person would read the phrase to mean a contribution includes anything of value that is transferred, regardless how the transfer occurs.

The Defendants continue in the same vein, asserting words like “on,” “supporting,” “opposing” and “assisting” are all also too vague for them to understand. Counterclaim, ¶¶ 121, 144-45. By way of example, the Defendants claim not to understand what it means to be “supporting” someone, asking rhetorically if this would include “offering a stick of gum to a candidate.” *Id.*, ¶ 145. In order to determine how such behavior would be viewed under the Election Code, insert the Defendants’ example into the definition challenged:

General-purpose committee means a political committee that has among its principal purposes offering sticks of gum to ... two or more candidates who are unidentified ...

If a group is organized for the “principal purpose” of offering gum to candidates, this (unusual) group would qualify as a general-purpose political committee — and the gum as a contribution, whether handed to the candidate (a “direct” contribution) or left on the table for his use (an “indirect” contribution). Tex. Elec. Code §§ 251.001(2), 251.001(14). The Defendants’ identification of foolish examples of things that might qualify as “support” (or “opposition,” or whatever) does not make the Election Code definitions they challenge vague, and their contrary claims have no validity.

Finally, in their most inventive claim, the Defendants assert they have no idea what it means to act with “intent.” Counterclaim, ¶ 118. The Plaintiffs are certain every

criminal accused in the country would love for the Court to rule the concept of intent is just too vague to be constitutional, and therefore cannot be used in a statute governing behavior. Of course, other courts have proven less than sympathetic to the argument that the meaning of “intent,” “intend,” “intentionally,” “intended,” etc. is unconstitutionally vague because people cannot determine what it means. *See, e.g., United States v. Campaz-Guerrero*, 2011 WL 1522386 at * 2-3 (11th Cir. Apr. 22, 2011), *cert. filed*; *United States v. Urlacher*, 979 F.2d 935, 939 (2nd Cir. 1992); *State v. Newman*, 696 P.2d 856, 864 (Idaho 1985). Texas law defines intent to mean something done with the “conscious objective or desire to engage in the conduct,” Tex. Penal Code § 6.03(a) (defining “intentionally”), nothing about this definition makes an intent to do something legal or constitutional illegal or unconstitutional, and so any reasonable person would understand what it means to act with “intent.”

e. Conclusion

Anyone can read the objected-to definitions and understand what they mean. These definitions do not proscribe any significant amount of constitutionally-protected activity; in fact, as definitions, they do not proscribe anything at all. Finding them unconstitutional would effectively invalidate the Election Code and its permissible restrictions on certain contributions, depriving everyone but the Defendants of their constitutional right to know where the money comes from. Because their meaning is clear to a reasonable person, the Defendants vagueness claims (both overbreadth and facial vagueness) must fail.

5. Other Arguments

In their Counterclaims, the Defendants make a number of constitutional arguments based on an apparent belief that any limitations on their actions must violate every provision of the constitution, not just those related to free expression. These arguments may be considered and disposed of briefly.

a. “Prior Restraint”

The Defendants assert the fact that Plaintiffs may sue for violations of Texas state election law imposes a “prior restraint on speech.” Counterclaim, ¶¶ 65-66. It does no such thing.

The phrase “prior restraint” is a term of art in First Amendment jurisprudence, and means “administrative or judicial orders forbidding certain communications when issued in advance of the time that such communications occur.” *Alexander v. United States*, 509 U.S. 544, 550, 113 S.Ct. 2766 (1993); *Test Master Educational Svcs., Inc. v. Singh*, 428 F.3d 559, 579 (5th Cir. 2005), *cert. denied*, 547 U.S. 1055, 126 S.Ct. 1662 (2006); *In re Wallen*, 2011 WL 2937838 at * 2 (Tex. App. — Waco July 12, 2011, orig. proceeding). To qualify as a prior restraint, a restriction must meet four elements: (1) the speaker must apply to the decision maker before engaging in the conduct; (2) the decision maker is empowered to determine whether the speaker will be allowed to speak based on the content of his communication; (3) approval requires the decision maker to do something affirmative; and (4) approval is not routine, but requires the application of the decision maker’s judgment. *Southeastern Promotions, Ltd. v. Conrad*, 420 U.S. 546, 554, 95 S.Ct.

1239 (1975); *Samuelson v. LaPorte Community Sch. Corp.*, 526 F.3d 1046, 1051 (7th Cir. 2008). Given these requirements, it cannot be seriously maintained that the right to bring a lawsuit after one has violated a law to seek damages for the violation can qualify as a “prior” restraint of anything, especially given that the Court or the trier of fact (rather than the Plaintiffs) is the ultimate decision maker in the case.

b. Due Process — Clear Investigatory Standard

The Defendants next claim the Plaintiffs’ right to sue them for violating state election law implicates their due process rights, because due process requires that “before an investigation (here, discovery) can commence” there must be a clear, objective standard as to what “showing must be made to proceed with the investigation.” Counterclaim, ¶ 68. The authority cited is *Sweezy v. New Hampshire*, 354 U.S. 234, 77 S.Ct. 1203 (1957), a half-century old plurality opinion that does not support the argument made.

Sweezy did, in fact, involve an investigation — into allegedly subversive activities of the Progressive Party by the Attorney General of New Hampshire, i.e., it was a McCarthy-era witch hunt for Reds, and was understood to present a question about “the constitutional limits of a legislative inquiry.” *Sweezy*, 354 U.S. at 235-37. In answering this question, the court focused on the role of the legislature in conducting such an investigation, and the discretion it affords its delegate, the Attorney General. *Id.* at 253-54. It decided that because the record did not show the legislature wanted to know what the Attorney General asked of a university professor, due process precluded the Attorney

General from using the contempt power to force an answer to these questions. *Id.* at 254-55.

If none of this sounds relevant to the question of whether the Plaintiffs are entitled to discovery in a civil lawsuit against the Defendants, that is because it is not relevant. The due process concerns in *Sweezy* were over the abuse of governmental power by the government, an issue not implicated here. The Plaintiffs have been unable to find a single case from any court in the United States that does as the Defendants so blithely do, equating an “investigation” by the government with “discovery” by a private party. Rather, the cases citing *Sweezy* see it for what it is (an academic freedom case), another issue not raised here. Finally, even if none of this were true, the discovery rules provide such a standard, allowing the Court to determine what is discoverable and what is not. There is simply no basis to the Defendants’ claim that the law requires an external standard that must be met before a party can seek civil discovery from a liable defendant.

c. Due Process — Scope of Discovery

Continuing in the same vein, the Defendants next claim that both the First Amendment and constitutional due process considerations mean that they have the right to protect information about their members, and therefore are entitled to hide the names of their contributors from the public. Counterclaim, ¶¶ 70-74. There are at least three discrete problems with this argument.

The first is that it is unproven. As set forth above, organizations may have the right to hide the identity of contributors, but only after showing that the release of their

names is likely to be dangerous, i.e., if they are likely to be subject to “threats, harassment, or reprisals,” *Citizens United*, 130 S.Ct. at 914; *Buckley*, 424 U.S. at 74, which were the very dangers faced by the members of the organization in the authority relied on by the Defendants, *National Ass’n for the Advancement of Colored People v. State of Alabama ex rel. Peterson*, 357 U.S. 449, 462-63, 78 S.Ct. 1163 (1958) (refusing to force the NAACP to produce its membership lists to the state government of Alabama), a fact the Defendants ignore. In order to accept this argument, the Defendants would have to present proof that is (to date) lacking.

Second, the Defendants also ignore recent Supreme Court authority finding the production of the very information the Defendants wish to keep hidden was constitutionally permissible. The question presented there was whether the names and addresses of individuals who signed a petition to place a referendum on the ballot to repeal a law allowing same-sex unions could be disclosed under a state open records statute. *Doe*, 130 S.Ct. at 2815. In finding the disclosure was permissible, the Supreme Court found that the State had a legitimate interest in protecting the integrity of the electoral process and preventing fraud, and that this interest was sufficient to overcome the signatory’s right to keep their identity secret. *Id.* at 2819-21. In reaching this conclusion, it applied the same as-applied analysis discussed above, and found no evidence showed that the disclosure of this information would endanger the signers. *Id.* at 2820-21. Here, the election law requires certain disclosures that are necessary both to ensure the laws are being obeyed and to inform the public about who is providing the

funding for a particular candidate or on a particular issue. Both of these interests are sufficient to support the disclosure of the information sought.

Alternatively, the Defendants ignore that the discovery rules themselves allow the Court to fix limits on discovery if such limits are necessary to protect their constitutional rights, and if such limits are imposed their constitutional objections necessarily fail under the rule that the Court should not decide a constitutional question if there is no need to do so. *Citizens Assoc. for Sound Energy (CASE) v. Boltz*, 886 S.W.2d 283, 288 (Tex. App. — Amarillo 1994, write denied), *cert. denied*, 516 U.S. 1029, 116 S.Ct. 675 (1995) (protective order sufficient to protect litigant against claimed constitutional violation; court refused to find statute violated First Amendment right to keep membership information confidential).

For all these reasons the Defendants cannot show the Plaintiffs right to sue them for a violation of the Election Code gives them a right to hide the identity of people whose identity was supposed to be disclosed under those law.

d. This is not a Defamation Case

The Defendants thunder on: according to the Defendants they cannot be sued because the constitution does not permit them to be found liable “absent clear and convincing evidence.” Counterclaim, ¶ 76 (*citing New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710 (1964)). As the Court doubtlessly knows, *Sullivan* is the Supreme Court case establishing the constitutional standard that must be met before a person may

found to have defamed a public official: the plaintiff must show the defendant acted with “actual malice.” *Sullivan*, 376 U.S. at 279-80.⁷ Well and good, but not relevant here.

The Defendants’ contrary claim notwithstanding, the Supreme Court has never announced a rule that any time a defendant comes into court braying about the First Amendment the plaintiff must prove his claim under a heightened standard of evidence. In fact, the Supreme Court has only ever applied such a rule in defamation cases like *Sullivan*, i.e., those involving a public figure and the concomitant need to prove actual malice, see, e.g., *Bose Corp. v. Consumers Union of the U.S., Inc.*, 466 U.S. 485, 490, 104 S.Ct. 1949 (1984), and has affirmatively refused to apply it in other contexts. See, e.g., *Crawford-El v. Britton*, 523 U.S. 574, 595, 118 S.Ct. 1584 (1998) (refusing to apply a clear and convincing standard of proof to qualified immunity claim). The Defendants’ claim that there is a general rule requiring clear and convincing evidence in all cases where a litigant’s First Amendment rights are implicated is simply not true.

Alternatively, the Court should reject the Defendants’ claims on this point because this case is not a First Amendment case the way *Sullivan* is. The Defendants’ argument on this point is advanced in connection with the assertion that the constitution affords them protections in a suit for violation of the Election Code. As discussed above, if the Court finds even one of the Election Code provisions on which the Plaintiffs sue to be constitutional, the Plaintiffs’ right to seek a remedy for the Defendants’ violation of the

⁷ If the Court looks at the Defendants’ claim and their explanation of the holding of *Sullivan*, it will note a marked disconnect — their parenthetical (which accurately quotes *Sullivan*) says nothing about a heightened standard of proof, but rather says the speech must have created “a clear and present danger of the obstruction of justice,” a different issue.

law does not seek to make them liable for their constitutionally-protected speech (as in *Sullivan*), but rather liable for failing to obey a law imposed by the Legislature that has already been found able to constitutionally limit how the Defendants may act. The fact that this law relates to an activity that has some effect on speech does not make it a speech case subject to the heightened standard of proof applied in cases involving the alleged defamation of a public figure.

e. This is not a Search Warrant Case

The Defendants' next claim is even more tenuous. According to the Defendants, the Plaintiffs cannot sue them because the suit violates their constitutional right to be free of unreasonable searches and seizures. Counterclaim, ¶¶ 78-83. In support of this argument they cite a Supreme Court case involving a search warrant to allow the police to search for evidence of Communist Party membership. *Stanford v. Texas*, 379 U.S. 476, 477-79, 85 S.Ct. 506 (1965). The fact this case will not result in the issuance of a search warrant is fatal to the Defendants' claim.

It has been settled for almost a century that the Fourth Amendment's protections against search and seizure do not apply if the "seizure" complained of is done by a private party, *Burdeau v. McDowell*, 256 U.S. 465, 474-75, 41 S.Ct. 574 (1921); *accord*, *Sinkker v. Railway Labor Executives' Ass'n*, 489 U.S. 602, 614, 109 S.Ct. 1402 (1989); *Miles v. State*, 241 S.W.3d 28, 34 (Tex. Crim. App. 2007), a general rule that has been specifically applied in other cases involving civil discovery requests. *Union Oil Co. of Cal. v. Hertel*, 411 N.E.2d 1006, 1008 (Ill. Ct. App. 1980). The only exception to this rule

is if the private part is acting as a cat's paw for the government, seizing something at the government's behest, *see, e.g., United States v. Jacobson*, 466 U.S. 109, 113, 104 S.Ct. 1652 (1984); *Cobb v. State*, 85 S.W.3d 258, 270-71 (Tex. Crim. App. 2002), *cert. denied*, 537 U.S. 1195, 123 S.Ct. 1256 (2003), which is not the case here.⁸ The fact the Plaintiffs may use discovery to pursue civil claims against the Defendants does not implicate their Fourth Amendment rights.

D. Summary Judgment for Access to Records

Finally, this case also presents an issue that the Defendants have not (yet) framed as a constitutional one, an issue on which the Plaintiffs are entitled to summary judgment on its merits. The claim arises out of the requirements that non-profit corporations like King Street Patriots, make its records available for inspection.

Under Section 22.352 of the Business Organization Act (previously found in Article 2.23A of the Texas Nonprofit Corporation Act), a nonprofit corporation is required to keep "current and accurate financial records with complete entries as to each financial transaction of the corporation ..." Tex. Bus. Org. Code § 22.352(a). These records are then used to prepare certain reports about the corporation's activities, on an annual basis. Tex. Bus. Org. Code § 22.352(b). This information must also be made available for public inspection. Tex. Bus. Org. Code § 22.353(b). These statutes mean just what they say and should be applied just as they are written, but King Street Patriots

⁸ The State has been advised by KSP of their constitutionality claims as required by law and the State heretofore has not appeared in this case.

has refused complete compliance with these provisions.

If the Defendants wish to avoid having to disclose this financial information, there is a ready remedy — do not become a non-profit corporation. Although the tone of every pleading the Defendants have filed seeks to paint this case as being one of great constitutional moment, access to King Street Patriot’s financial records raises no such issue. The Legislature has determined that, in certain cases, we will allow people to organize a corporation that pay no taxes, but in return those entities are required to submit to certain rules. Once organized, non-profit corporations can take advantage of common goods provided by the government (such as roads, communications infrastructure and even this Court) without bearing their share of the tax burden necessary to support it. However, in choosing this form of organization they must comply with the rules governing non-profits, including the disclosure rule embodied in Section 22.353(b). The issue is not one of free speech; rather, the issue is whether anyone has a constitutional right to organize themselves as a non-profit without being subject to these rules. They do not. *Regan v. Taxation with Representation of Wash.*, 461 U.S. 540, 103 S.Ct. 1997 (1983).

Anticipating the Defendants’ amendment of their counterclaim to assert constitutional claims against the provisions of Section 22.353 of the Business Organizations Code, the Plaintiffs further note the Texas Supreme Court has found this section to be constitutional. In doing this, they specifically rejected the claim that requiring non-profit corporations to disclose this financial information burdens their

constitutional rights, specifically including their First Amendment rights. *In re Bay Area Citizens Against Lawsuit Abuse*, 982 S.W.2d 371, 381 (Tex. 1998) (orig. proceeding). Should the Defendants advance such an argument it therefore ought to be rejected, and the Court should grant the Plaintiffs summary judgment on their claim of right to access to King Street Patriots' financial records pursuant to Section 22.353(b) of the Business Organization Code.

Dated this 31st day of August, 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 31st day of August, 2011:

Michael S. Hull
Hull Hendricks, L.L.P.
221 W. 6th Street, Suite 960
Austin, TX 78701-3407
*(Attorney for King Street Patriots, Inc.,
Catherine & Bryan Engelbrecht and Dianne Josephs)*
By E-Mail and by Regular U.S. Mail

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 E-Mail and by Regular U.S. Mail

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 E-Mail and by Regular U.S. Mail

Margaret A. Wilson
807 Brazos Street, Suite 1014
Austin, TX 78701
*(Attorney for King Street Patriots, Inc.,
Catherine & Bryan Engelbrecht and Dianne Josephs)*
By E-Mail and by Regular U.S. Mail

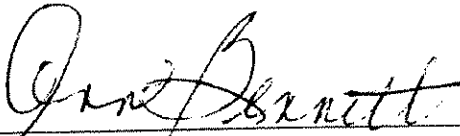
Kelly J. Shackelford
Jeffrey C. Mateer
Hiram Sasser, III
Justin E. Butterfield
Liberty Institute
2001 Plano Parkway, Ste. 1600
Plano, Texas 75075
*(Attorney for King Street Patriots, Inc.,
Catherine & Bryan Engelbrecht and Dianne Josephs)*
By E-Mail and by Regular U.S. Mail

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 E-Mail and by Regular U.S. Mail

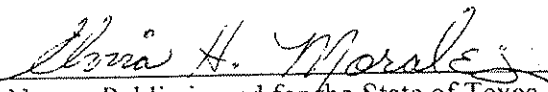
Chad W. Dunn

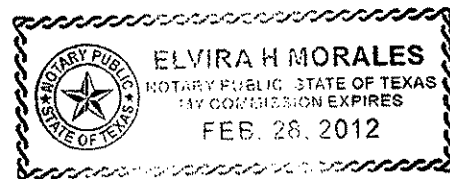
5. KSP raised money from sources I was unable to identify. KSP filed no public reports as I did and the other candidates and political organizations filed.
6. KSP supported the election of my opponent, the Republican Party Nominee. KSP gave him an opportunity to attend its forums.
7. KSP also prepared an elaborate poll watcher recruitment and training program. KSP advertised unsubstantiated reports of "voter fraud" in order to attract poll watcher volunteers.
8. Under Texas Law only candidates and political parties may appoint poll watchers.
9. The poll watchers recruited and trained by KSP were appointed by Republican nominees or the Harris County Republican Party to particular polling locations. I was never offered poll watchers from or on behalf of KSP for assignment where my campaign believed they could be useful.
10. During voting, I visited numerous polling locations. The KSP poll watchers were assigned to polling locations that typically support in large numbers Democrats. These polling locations often also included a significant number of Asian, African-American and/or Latino voters.
11. The KSP poll watchers would occasionally wear shirts such as the "Don't Tread On Me" logo while at the polls. Many poll watchers hovered over voters and/or made disturbances and/or challenges to voters.
12. Numerous reports were made to my campaign, the media and the local Democratic Party of intimidation or disturbances in precincts that overwhelmingly support Democrats.
13. My campaign listed as required under Texas Law all the contributors who donated money or in-kind services. My campaign also reported all expenditures.
14. Campaigns such as mine are at a strategic disadvantage in providing this information to the public when our opponents do not comply with the same laws. The public cannot make informed choices in campaigns when one side does not disclose the economic interests behind their efforts.
15. The activity undertaken by KSP in the past and expected to occur in the future is political in nature and is designed to increase the chances of Republicans being elected. KSP's efforts are designed to make it more difficult for me and other Democrats to win any election anywhere in the nation.
16. KSP has announced intentions to carry their activities nationwide. There is already evidence they have undertaken political activity in various counties around Texas.

Further, affiant saith not.


ANN BENNETT

SUBSCRIBED AND SWORN TO BEFORE ME on this 31st day of August, 2011,
to certify which witness my hand and seal of office.


Notary Public in and for the State of Texas



002363

No. D-1-GN-11-001110

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

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

261st JUDICIAL DISTRICT

AFFIDAVIT OF GERALD BIRNBERG

STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, on this day personally appeared GERALD
BIRNBERG, who, being by me duly sworn, deposed as follows:

1. "My name is Gerald Birnberg. I am of sound mind, capable of making this Affidavit, have personal knowledge of the facts stated herein and these facts are true and correct.
2. I am the elected Chair of the Harris County Democratic Party and have been since January, 2003.
3. During the 2010 General Election, I learned that the King Street Patriots ("KSP"). KSP was holding candidate forums at which only Republican candidates were invited to attend. I was never invited to a KSP forum.
4. KSP opened an office in Northwest Harris County. While I was not in attendance, it is my understanding that Governor Rick Perry and other

EXHIBIT "B"

Republicans spoke at the kickoff function. No Democrats were invited to speak, to my knowledge.

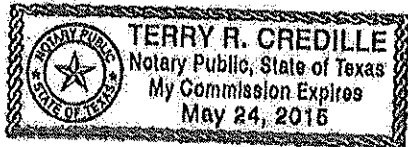
5. KSP raised money from sources I was unable to identify. KSP filed no public reports like I and the other candidates and political organizations filed.
6. KSP engaged in activities which provided support for the election of Republican Party nominees. Republican nominees were given an opportunity to attend KSP forums. I have never heard of any Democratic nominee being invited to participate in a KSP forum.
7. KSP also prepared an elaborate poll watcher recruitment and training program. KSP advertised unsubstantiated reports of "voter fraud" in order to attract poll watcher volunteers.
8. In partisan elections, under Texas law, only candidates and political parties may appoint poll watchers.
9. The poll watchers recruited and trained by KSP for service in Harris County were all appointed by Republican nominees or the Harris County Republican Party. The KSP never offered to provide poll watchers for or on behalf the Harris County Democratic Party. I attended at least one meeting at the Harris County Attorney's Office at which the representative of the Harris County Republican Party discussed and acknowledged the coordination of efforts between the KSP and the Harris County Republican Party in connection with training and assigning poll watchers.
10. It was reported to me in my capacity as Harris County Democratic Chair that KSP poll watchers were assigned to polling locations that typically provide a substantial majority of Democratic votes. These polling locations often also included a significant number of Asian, African-American and/or Latino voters.
11. It was reported to me that the KSP poll watchers would occasionally wear shirts with logos such as "don't tread on me" while inside the polling locations. Many KSP poll watchers were reported to hover over voters while they were casting ballots and/or made disturbances and/or challenges to voters.
12. Numerous reports were made to the Harris County Democratic Party of intimidation or disturbances in polling locations (mainly early voting polling locations) that overwhelmingly support Democrats.
13. The Harris County Democratic Party, as a political committee, reported, as required under Texas law, the names and addresses of (and other required information about) all contributors who donated money or in-kind services to the Harris County Democratic Party. The Harris County Democratic Party also reported all expenditures as required by law.

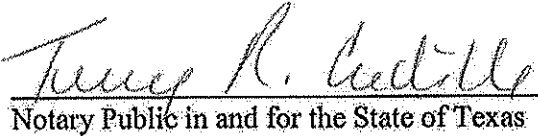
14. The Harris County Democratic Party, as a political organization, is at a substantial strategic disadvantage if it must provide contribution and expenditure information to the public, while groups exclusively supporting our opponents do not comply with the same laws. In my opinion, the public cannot make informed choices in campaigns when one side does not disclose the economic interests behind its efforts. Disclosure laws serve important governmental and societal interests in ensuring the public is aware of the economic interests behind various candidates and parties.
15. In my opinion, the activity undertaken by KSP in the past and announced to occur in the future is political in nature and is designed to increase the chances of Republican candidates to be elected. KSP's efforts are, in my opinion, clearly designed to make it more difficult for Democrats to win elections.

Further affiant saith not.


GERALD BIRNBERG

SUBSCRIBED AND SWORN TO BEFORE ME on this 30th day of August, 2011, to certify which witness my hand and seal of office.




Notary Public in and for the State of Texas

5. I followed the group closely online and in the media and spoke to several reporters about the KSP, including putting together a media packet which documented several examples of KSP assisting Republican candidates.
6. Included in the packet were pictures and write-up's from some of their meetings which featured Republican speakers like County Judge Ed Emmett, State Representative Jim Murphy, Congressman Pete Olson and Congressman Ted Poe.
7. No Democratic candidates were ever reported to have been speakers at the KSP meetings nor were any ever invited to speak to the best of my knowledge.
8. KSP supported the re-election effort of Republican Governor Rick Perry by hosting a phone bank at their headquarters which was promoted via email by the Perry campaign.
9. Governor Perry also spoke at the KSP headquarters grand opening.
10. I also spent a significant amount of time tracking and talking to press about a poll watcher program KSP used which essentially consisted of voter intimidation at minority polling sites.
11. On the first day of early voting, there were numerous reports from minority areas in Harris County of disruptive poll watchers intimidating voters and disrupting poll sites.
12. I learned through reports from the field and from independent media reports that the poll watchers causing the problems were part of the KSP poll watcher program.
13. Though the Texas Election code provides for poll watchers to be appointed by political parties and candidates, there was at least one KSP member who admitted on camera in a televised story that he was appointed by the KSP and had no idea who formally appointed him as a poll watcher other than the KSP.
14. I also learned through reports from the field and media reports that the KSP were not assigning poll watchers to any early voting poll sites in areas that did not have high minority populations.
15. I worked with the Harris County Democratic Party to compile a list of incidents at the polls which included KSP poll watchers hovering over voters while they were attempting to cast their ballots and disrupting polling sites by loudly arguing with election judges.
16. KSP responded to media reports by saying they were simply monitoring the polls and trying to prevent voter fraud. To my knowledge they did not ever attempt to prevent voter fraud at polling sites in Republican areas nor did they ever attempt

to contact Democratic candidates or the Democratic Party to offer the type of assistance they were supplying Republicans.

17. To the best of my knowledge, every KSP poll watcher was appointed by Republican candidates or the county Republican Party.
18. Since Election Day, the KSP has held numerous training sessions and seminars intended to export their vote suppression program around the country.
19. KSP had an extensive field program, a very nice headquarters and has had several different lawyers appear in the media to speak on their behalf identifying themselves as KSP lawyers.
20. The only funding sources identified by KSP has been "passing the hat" at their meetings.
21. In ten years of working on political campaigns and for the Democratic Party, I have never seen or heard of a candidate or political organization able to raise the sums of money that would be required to pay for all their activities by "passing the hat".
22. KSP has not disclosed the sources of their funding. Unlike the Texas Democratic Party and every other candidate I have ever worked for, KSP has not filed any public reports disclosing donors.
23. The campaign finance laws in place which all political entities must obey are in place to ensure fairness and to make our political system transparent for the voters who want to know who the people are who are putting large amounts of money into efforts that will have a tremendous effect of the policies that will affect us all.
24. The fact that KSP are able to conduct partisan political activities without disclosing financial information allows their donors to assist Republican candidates without revealing themselves or revealing the extent to which they are assisting and it gives them an unfair advantage over every other political entity which abides by the law.
25. In my experience with political campaigns, I have seen numerous negative media reports which focus on a particular donor giving large amounts of money to a political candidate and questioning what that donor must expect in return for such a large contribution.
26. I believe KSP may be appealing to those types of donors seeking contributions from them so that the donors can assist Republican candidates without having to reveal their names or the amount they contributed.

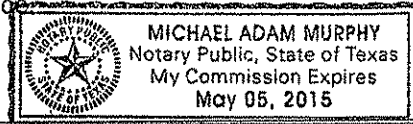
27. Further, I believe the KSP are probably taking money from corporations to pay for their political activities, which is not a legal option for political parties or candidates in Texas and would not be an option for them if they were a properly registered political action committee.
28. After the 2010 election cycle, I returned to Austin and was the Texas Democratic Party's point person on all activity related to the 82nd Legislative Session.
29. On multiple occasions, I saw KSP representatives testifying before the House Elections Committee on pieces of legislation which would have further enabled their voter suppression activities, including advocating for the Voter I.D. law and the installation of cameras inside polling sites.
30. All candidate campaigns and political parties are at a disadvantage when we have to comply with laws that another political entity does not comply with. Democratic candidates and every level of the Democratic Party is particularly damaged by the KSP efforts because the KSP is conducting political activity solely designed to elect Republicans.
31. Aside from giving the Republican Party an illegal advantage, the KSP activities also harms all Texans who want to know which donors are making contributions to candidates.
32. I have seen evidence that the KSP has used their program outside of Harris County in other Texas counties and I have also seen communications from them that make it clear that they intend to carry their activities around the country.

Further, affiant saith not.



ANTHONY GUTIERREZ

SUBSCRIBED AND SWORN TO BEFORE ME on this 30 day of August, 2011,
to certify which witness my hand and seal of office.



Notary Public in and for the State of Texas



KING STREET PATRIOTS

- Home
- About
- News
 - This Just In
- Calendar
 - Upcoming Events
- True the Vote
- Resources
 - Texas Voter and Election Information
 - America's Founding Documents
 - Videos
- Donate
- Contact
 - Media Kit

Search...



True The Vote Statewide Summit – January 15th



9:00am: Please join us for the True the Vote Texas Statewide Summit

[Click here for a printable invitation](#)

[Click here to register for event](#)

**PLEASE JOIN US FOR THE
TRUE THE VOTE TEXAS
STATEWIDE SUMMIT**

**JOIN FORCES WITH
FELLOW TEXANS
WORKING FOR FREE AND FAIR ELECTIONS**


TRUE THE VOTE IN YOUR COUNTY
FOR A LIST OF COUNTIES VISIT: www.true-the-vote.org

SPEAKERS INCLUDE:
 ANITA MEISTER-BOYD
 FOUNDER OF CALIFORNIA VOTER FRAUD PREVENTION
 CHRISTOPHER W. WILSON
 FOUNDER OF THE TEXAS VOTER FRAUD PREVENTION
 FOUNDER OF THE TEXAS VOTER FRAUD PREVENTION
 KELLY S. WAGNER
 FOUNDER LIBERTY INSTITUTE

**FRIDAY JANUARY 14TH @ 7PM RECEPTION
 JANUARY 15TH @ 9A - 5P**
 IMPERIAL GRAND HOTEL
 222 WEST LOOP SOUTH
 HOUSTON, TX 77027

**50 FREE PERSON
 TO RSVP OR FOR MORE INFO, EMAIL:
 TEXAS@TRUETHEVOTE.ORG**

FOR MORE INFORMATION VISIT: www.true-the-vote.org



Like 12 likes. Sign Up to see what your friends like.

Tags: [True the Vote](#)

2 Responses to "True The Vote Statewide Summit - January 15th"

1. Anita Meister-Boyd 5 January 2011 at 3:47 pm #

I am heading up an effort to clean up voter fraud in California. I heard that you might hold a nationwide summit in March, but I am unable to find any information on this.

I would appreciate any guidance you could give me on cleaning up the voter roles.

Yours very truly,
 Anita Meister-Boyd

Leave a Reply

Name (required)

Mail (will not be published) (required)

Website

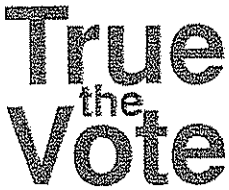
What You Can Do

Join Our Email List

Enter Email Here:

Privacy by SafeSubscribeSM

What We Do



elections

FREE AND FAIR Election fraud attacks the heart of our political system and threatens our rights as citizens. If you care enough to help, contact us today to become part of our action plan.

@KingStPatriots

- Come to "KSP Grand Opening Celebration" Monday, May 16 from 7:00 pm to 10:00 pm. King Street is thrilled to invite...
<http://fb.me/MAJ1oVBx>
about 17 hours ago from Facebook
- KSP Grand Opening Celebration!: King Street is thrilled to invite you to join us at the...
<http://goo.gl/fb/WzLZS>
#fb
about 18 hours ago from Google
- Calls Are Needed!: Call the office of your senator with a clear message: vote no on any...
<http://goo.gl/fb/t1nV5>
#fb
about 2 days ago from Google
- Let Your Voice Be Heard...: ...on the redistricting debacle that played out in the Texas...
<http://goo.gl/fb/pLLDW>
#fb
about 2 days ago from TDP

5/4/2011

King Street Patriots » True The Vote Stat...

Google

© 2011 King Street Patriots

»



[Home](#) [About Us](#) [F.A.Q.](#) [Agenda](#) [Speakers](#) [ARCHIVES!](#) [Support](#) [Contact](#)

Join Us!

Your Email:

Your 5 digit Zipcode:

[Skip for now](#)

[Join Us!](#)

OUR REPORTING READER FORUM CULTURE PRIMARY SOURCES STIMULUS WATCH FLOOR PASS DONATE

Search the Observer...

COVER STORY | PURPLE TEXAS | LA LINEA | FORREST FOR THE TREES | THE CONTRARIAN | TEX IN THE CITY | URBAN COWGIRL | FLOOR PLAY | OP ED

The Queen of King Street

What do Catherine Engelbrecht and her notorious Houston "patriots" really want?

by Paul Knight
Published on: Thursday, February 03, 2011

SUPPORT



photo illustration by Malt Wright-Steel

ON OPENING DAY OF THE 82ND TEXAS LEGISLATURE, Catherine Engelbrecht stood in the shade of a live oak near the south steps of the Capitol watching a crowd gather for the afternoon Tea Party rally. Compared with those around her, many clad in stars and stripes, Engelbrecht looked elegantly out of place in her full-length, black wool coat and gray scarf. Her blond hair and aviator sunglasses gave her the air of an aging Hollywood bombshell.

She remained silent as former state Rep. Rick Green, a Tea Party favorite for his promotion of a Christianized version of American history, fired up the crowd. The Dripping Springs Republican praised "the people" for getting the U.S. Constitution read on the floor of the House of Representatives. It was a victory, Green said, over America's "massive march to socialism," a sign that the march was being halted "by a tsunami of red, white and blue."

Green added, "And everybody here should support the King Street Patriots!" The Tea Partiers roared. Engelbrecht whispered, "Wow, I'm surprised to get a shout-out."

In 2009, Engelbrecht founded the King Street Patriots, a Tea Party group in Harris County that trained hundreds of volunteer poll-watchers—most of them white, well-off suburbanites like Engelbrecht—to look for voting irregularities, mostly in minority precincts. The group's efforts to, in their phrase, "True the Vote," led to fierce battles with progressive get-out-the-vote groups and the New Black Panthers. It also led to lawsuits, investigations, complaints and a national media spotlight. Engelbrecht, with no experience as a political activist, became one of the most recognizable, and controversial, faces in Texas' loosely defined Tea Party movement. The group's claims to simply want honest elections was undercut, among other things, by a video—produced in Engelbrecht's game room—featuring the doctored photo of a black woman holding a sign that reads, "I only got to vote once!"

The King Street Patriots hit the big time last August when Harris County's Republican voter registrar, Leo Vasquez, made a startling announcement at a press conference: Based in part on information turned over by Engelbrecht, Vasquez said he had found more than 5,000 invalid voter applications, mostly from heavily minority districts. That figure turned out to be wildly inflated. But the accusations and controversy hurt Houston Votes' efforts. According to one report, the group was registering 1,000 voters a day before King Street and Leo Vasquez accused the group of fraud; afterward, the number dropped to about 200 a day.

Related Stories (by Tag)

- David Dewhurst: The Lite Guv/Who Spoked Us
- Class Warfare
- Immigrant Healthcare is a National Concern
- Latino Growth in Texas Starts GOP Congressional Inflight
- 5 Things to Know About Utah's Immigration Model

Related Stories (by Category)

- Chronic Exposure
- The Sheepish Revolutionary
- Former Texas Observer Editor Wins Pulitzer Prize
- Poisoned in the Gulf
- School Daze

FROM THIS LIST... REPORTING NEWS EVENTS

THE 101st National Journalism Prize...
The 101st National Journalism Prize...
The 101st National Journalism Prize...

SPONSOR THE MOLLY PRIZE NOW!
ATTEND THE AWARDS DINNER ON JUNE 9

FIND OUT MORE ABOUT THE MOLLY NATIONAL JOURNALISM PRIZE
June 9, 2011

NEXT GENERATION LEADERS

Former Lt. Gov Bill Hobby shares his thoughts on the Texas Legislature. "There's an evil mutant gene in the Republican Party."



King Street's collaboration with the ethically challenged Vasquez turned Engelbrecht into a Tea Party celebrity. In October, when Engelbrecht dispatched hundreds of King Street volunteers as poll-watchers in many of the same minority precincts during early voting, she became Texas' most influential Tea Party organizer. Complaints about voter intimidation by the King Street "watchers" came fast and furious. U.S. Rep. Sheila Jackson Lee, a Houston Democrat and member of the Congressional Black Caucus, asked Justice Department election monitors to come to Houston, which they did.

For right-wing bloggers and conservative radio hosts, the King Street Patriots became a symbol of the federal government clamping down on a grassroots organization trying to combat voter "fraud." Engelbrecht was praised as a "true American hero"; Fox News, in one of its frequent interviews with the King Street leader, promoted her as a "soccer mom" turned "voter fraud whistleblower."



A week before Election Day, however, Engelbrecht and King Street were hit with a lawsuit from the Texas Democratic Party and an ethics complaint from non-partisan watchdog group Texans for Public Justice. Among other things, King Street was accused of illegally raising money and using it to produce and distribute videos of Republican-only candidate forums held at the King Street offices. Its poll-watchers, the complaint alleged, were recruited "to serve on behalf of the Harris County Republican Party."

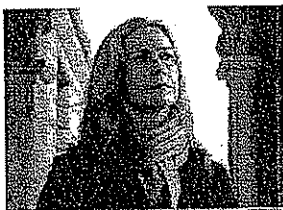
To progressives, King Street was an example not of grassroots power, but of a supposedly independent group acting as a Republican shill. "There's probably a small percentage of the Tea Party that is a true grassroots movement," says Chad Dunn, general counsel for the Texas Democratic Party. "The rest is manufactured, paid for by corporations to get their far-right candidates elected."

By the time the elections were over, Engelbrecht and King Street had been served with a defamation suit and had become the target of an investigation by the Harris County Attorney into King Street volunteers' activities at the polls.

For many Tea Partiers, the lawsuits and investigations make King Street and Engelbrecht look even more like models of grassroots warfare. Now Engelbrecht aims to spread King Street's "True the Vote" strategies beyond Harris County. On the Legislature's opening day, King Street's orange stickers, featuring the group's name and the image of a Revolutionary soldier were everywhere. After the Tea Party rally, Engelbrecht met with movement leaders and helped volunteers personally deliver King Street's 22-point plan to reform the state election code to legislators' offices.

The lawsuits and investigations won't slow them down, Engelbrecht says. The right-wing Liberty Institute is representing Engelbrecht and King Street pro bono, and James Bopp, a conservative attorney who worked on Mitt Romney's 2008 presidential campaign, is helping on the case. "We'll deal with that," Engelbrecht says. "But if we don't keep doing this now, no one will."

Dunn sees it differently. "The King Street Patriots think for some reason that they don't have to follow the rules just because they're the King Street Patriots, and they probably won't stop until the court steps in and says they have to," Dunn says. "But I think they're expecting the court to step in and tell them what they're doing is right."



ENGELBRECHT DESCRIBES HER MOVE into Tea Party activism as a slow drip. She'd always paid attention to politics, she says, but never *really* cared. When the economy crashed near the end of 2008—and the oil industry took a downturn—her "drip became a little faster." A lot faster, actually.

Now 41, Engelbrecht was born in Rosenberg, about 30 miles southeast of Houston and just outside Harris County. It was, she says, small-town Texas personified. Her father, an accountant, was active in local politics, serving on the city council, as a judge advocate for the local American Legion and on the hospital and library boards. He inspired Engelbrecht's small-government, anti-tax view of politics. But he was not a bomb thrower. Engelbrecht remembers words of advice that she has rarely followed: "Don't get so far out on a limb that, when somebody saws it off, you're the only one that falls."

In 1994, Engelbrecht and her husband started a small company, Engelbrecht Manufacturing Inc., to build, design and maintain machinery used to drill oil and gas wells. She served as the company's president—a title she still holds, though she has "officially stepped away from the daily role of the job." By 2007, Engelbrecht Manufacturing supported 34 full-time employees. The Engelbrechts bought a couple

5/4/2011

The Queen of King Street - The Texas O...

of acres and built a home in Richmond, a suburb 35 miles southwest of Houston. When their two children entered school, Engelbrecht was elected to the board of the Parent Teacher Organization. Aside from helping start a church in Rosenberg, it was the closest she'd come to political involvement.

The recession changed that. "We came off such a good year in 2007," Engelbrecht says. "Then there was nothing. Like ... nothing. We had no work." Then came the TARP bailout, "too big to fail" and President Bush's talk of abandoning "free-market principles to save the free-market system." President Obama's election sickened Engelbrecht, she says, as she saw a country "doomed to elect whoever had the best hair or could tell the best joke."

In February 2009, she was watching CNBC on a computer with her husband when reporter Rick Santelli captured her feelings in his famous rant against the bailouts, delivered from the floor of the Chicago Mercantile Exchange. When Santelli concluded, "It's time for a Tea Party," Engelbrecht agreed.

Over the next few months, Engelbrecht attended early Tea Party rallies at the Houston Convention Center and a downtown park. When a group calling itself the Houston Tea Party continued meeting after the rallies, Engelbrecht tagged along. She says she soon grew tired of the bickering and power struggles within the group and decided to start her own. Its initial meeting was held in the summer of 2009 at a northwest Houston bar called Sherlock's. Engelbrecht became the picture of a hard-driven activist.

"The economy had fallen through the floor, and I could have been going to work and making customer calls and trying to press on," Engelbrecht says. "Instead, I would take a shower, get dressed and drive 45 minutes into Houston to work on the King Street project. I'll never forget the day my husband looked at me and said, 'Who are you?'"

THE 2009 MUNICIPAL ELECTIONS in Houston promised fireworks, especially with the headline race between candidates vying to become either the city's second black or first openly gay mayor. (Annise Parker, a lesbian, won in a runoff.) As always, the city and county were hard up for volunteers to work the polls. Engelbrecht, still unsure of her fledgling group's purpose, recruited about 30 volunteers. After a few days' work, they came back from the polls complaining to Engelbrecht that election officials had too much control. A lot of voters, they said, came in and asked poll-watchers questions whom to vote for, or how to vote for particular candidates.

"There were all these conservatives who had always heard" rumors about voting irregularities, says Houston Tea Party activist and former GOP congressional candidate Tom Bazan. When the King Street volunteers "had something to show them, it just caught on like wildfire."

But it's not always easy to tell if voters or poll workers are violating the law. For instance, while poll workers cannot suggest one candidate or another, they can—in fact, they must—show voters how to vote and help cast a ballot if the voters need help writing or understanding the ballot. Similarly, voters can bring someone with them into the voting booth if they need help—another complaint of the King Street volunteers. From a distance, such actions can look devious, as though someone is manipulating the system. But such measures are meant to help maximize access.

King Street now had its mission and its name—after the original group that protested "confiscatory" taxes in colonial Boston. Engelbrecht rented meeting space in a retail strip in northwest Houston. She registered King Street as a nonprofit and named herself president. It's the only official title in the group. King Street doesn't have official memberships, either, just volunteers who show up and donate cash. As the 2010 elections grew closer, its weekly meetings averaged about 150 people.

The project that launched King Street and Engelbrecht into the national spotlight started when she heard about Houston Votes, a project of Texans Together Education Fund, which registers voters in neighborhoods with historically low turnout and large minority concentrations. Engelbrecht had tried a registration drive with King Street, but she'd found it tough going, signing up a few hundred people in a month. How, she wondered, was Houston Votes signing up thousands?

Engelbrecht secured a list of registered voters in Harris County and had King Street volunteers cross-check names registered by Houston Votes with death records, property records and even satellite images on Google Maps. The results led her to allege that many of the voter applications were inaccurate.

The same month, the King Street Patriots hosted J. Christian Adams, an attorney who says he quit his post at the U.S. Department of Justice because it wouldn't prosecute the New Black Panthers who allegedly stood outside a Philadelphia polling station in 2008, brandishing billy clubs and intimidating voters. During a conversation about the New Black Panthers, recorded and posted on King Street's slick website, Engelbrecht said that Fred Lewis, president of Texans Together and a longtime progressive activist, was controlled by a "radical, racist, criminal hate group"—the New Black Panthers of Houston. The video would lead to a defamation suit filed by Lewis against Engelbrecht. The suit alleges that the King Street president intentionally lied to "destroy Lewis and Texans Together."

Contacted by the Observer, Lewis would not say much about King Street or

5/4/2011

The Queen of King Street - The Texas O...

Engelbrecht because the suit is pending. He referred us to his attorney, Jim George, who did not respond to calls.

Engelbrecht won't talk about Lewis or the lawsuit, either, except to say: "I'd seen people in the news before getting sued again and again, and I'd think, 'They must really be bad characters.' The whole experience is still surreal."

Things must have felt really strange when, less than a month later, the Texas Democratic Party filed its lawsuit, which raised serious questions about how much money Engelbrecht had raised, and from whom. The complaint says that King Street's "corporate contributions collectively appear to be worth tens, if not hundreds of thousands of dollars." The ethics complaint from Texans for Public Justice, filed almost simultaneously, alleged that King Street had received a \$2,500 donation from the Houston Association of Insurance Agents.

Nonprofit corporations in Texas, like King Street Patriots, don't have to list their funders, but they may not participate in partisan activity. To support a party or a candidate, they must create a political action committee, known as a PAC; PACs can be political actors but they also must list their donors. According to TPJ, King Street Patriots and its "True the Vote" effort amounts to political action by a nonprofit corporation. If true, that would make the group's actions equivalent to political donations from a corporation. That also would make them illegal under Texas law.

"They could talk generally about voter fraud," Craig McDonald, spokesperson for TPJ, told the *Observer*. "When they start to recruit people and volunteers to do something about it through the political parties, then it becomes illegal."

After the suits, Engelbrecht released King Street's financial information to the public. On Oct. 28, four days before the election, King Street's lawyers from the right-wing Liberty Institute—who did not return calls for comment—announced that Engelbrecht had raised about \$87,000 in a little over a year. They said the money came exclusively from hat-passing at King Street meetings—a literal hat, black felt cowboy, that goes around church-style at the end of every gathering.

"It strains belief that this group raised that amount of money by passing the hat at their meetings," wrote Chad Dunn, the Texas Democrats' general counsel, in a press release. He later told the *Observer*, "We don't know how much more money she's raised, but my guess is they have a large donor. I'd be willing to bet it's someone from business or insurance or any of the regular ATM lines to the Republican Party."

Engelbrecht denies it. She says the hat remains the primary method for raising cash, though she adds, "We have had a few individuals write us checks." Engelbrecht says she also put in her own cash to keep King Street running early on. But she's not saying how much they've raised beyond the \$87,000 announced in late October. "I'd prefer not to give a specific number," she says. "Last time we did that, we got torn to shreds."

WITH ELECTION DAY APPROACHING and controversy swirling around King Street, Houston's New Black Panthers leader, Quanell X, upped the ante, telling a TV reporter he would be at the polls watching King Street's watchers. He promised that he and the Panthers—a small but vocal group in Houston—would not carry billy clubs or nightsticks. But, he said, "We will not tolerate any intimidation tactics coming from them against our elderly, our women and our young people."

That gave Harris County election officials, who already had Justice Department lawyers monitoring sites where there had been complaints against King Street, a new set of worries. "We had never seen anything like this before," says Douglas Ray. "Nothing remotely like this."

Even before King Street stirred the waters, Harris County appeared headed for chaos on Election Day. On Aug. 27, about 50 days before the start of early voting, a massive fire ripped through a warehouse on Houston's north side and wiped out close to 10,000 voting machines. "It was devastating," says Terry O'Rourke, a first assistant in the office of the Harris County Attorney.

King Street's volunteer army was hardly helping matters, O'Rourke says. "Without the voting machines, it slows down the process. We have people," he says, referring to citizens in minority precincts, "who know people literally died for their right to vote. These people know that even slowing down the process can change the outcome of an election. That's not good, and they know it."

"So when you have a group of upper-class white people dealing with the mechanisms of an election for the first time, coming into minority districts, you can imagine the problems it causes," O'Rourke says.

Nobody had to imagine for long. King Street volunteers arrived at the polls on Monday, Oct. 18, the first day of early voting. There were 14 voter intimidation complaints that Monday alone. In one incident, according to the *Houston Press*, a female poll-watcher stood directly behind a voter and refused to move when asked to by an election judge. "I have the right to stand wherever I want!" the woman reportedly told the judge.

That incident happened at the Kashmere Multi-Service Center, an all-purpose building in Houston's Kashmere Gardens neighborhood, populated mostly by African Americans. Kashmere is in the 18th Congressional District, served by longtime

TDP

23

5/4/2011

The Queen of King Street - The Texas O...

Democratic representative and King Street arch-villain Sheila Jackson Lee. Lee was being challenged by Republican John Faulk. At King Street meetings, volunteers often wore round, red-and-white stickers featuring the initials "S.J.L." with a line slashed through them. Faulk's campaign headquarters sat next to King Street's. Many of the voter-intimidation reports, it turns out, came from the 18th District.

Election officials had a hard time responding. "It was difficult to do anything about the King Street Patriots," says O'Rourke, "because it's not like they were running around wearing signs that said 'King Street Patriots.' They were registered as Republican poll-watchers, so they were more or less an arm of the Republican Party."

An active arm, judging by the 56 complaints ultimately filed against them. Investigators, Ray says, "didn't find any definitive evidence of any violation of law." The complaints were handed over to the Harris County District Attorney's office. The investigation remains open.

While others complained about their tactics, the King Street Patriots were busy looking for problems while they watched the polls. The group filed more than 700 complaints about voting "irregularities," covering all but one of Harris County's precincts. Four of the complaints were allegations of assault, including a 65-year-old King Street volunteer who says she was yanked by the arm when she wouldn't leave a polling location.

The King Street-New Black Panthers showdown never materialized. Engelbrecht holed up in her offices on Election Day, fielding phone calls and reports from the polls. That night Republicans made gains in majority-Democratic Harris County and swept the statewide elections. The King Street Patriots celebrated in style with a party in the Crystal Ballroom of downtown Houston's ritzy Post Rice Lofts. Engelbrecht kept the faithful waiting a while as rumors buzzed about a confrontation with the New Black Panthers. She finally entered the ballroom to a standing ovation and declared victory.

"THE NATION IS READY for something like this," Engelbrecht said to a packed house at the King Street offices on the Monday night after the elections. "We're here for the long term."

Engelbrecht was already getting folks fired up for the next election. She told them that because the losing Democratic candidate for governor, former Houston Mayor Bill White, had carried Harris County, state election code dictates that Democrats will control the polls during the county's municipal elections this year.

"Y'all think we should just trust the Democrats at the polls to do the job right?" she asked.

"No!" the crowd yelled.

"Y'all think they're going to be happy to see us at the polls?" she asked.

"No!"

"Do we have time to sit around and pat ourselves on the back?"

"No!"

Engelbrecht's vision for King Street, even for the immediate future, stretches beyond Harris County. The group's impressive turnout on day one of the Legislature, when some 200 patriots came on buses from Houston, signaled its intention to push election-reform legislation, item No. 1 on King Street's 22-point plan—mandating that every voter show ID at the polls—has long been a priority for Republicans, and appears headed for easy passage after years of ferocious debate.

King Street's plan also proposes to remove the names of the deceased and felons from voter registries at "standardized intervals." It calls on the state to "Designate English as the official language of Texas and the only language used on ballots." And while the group wants voter identification, it also wants laws guaranteeing the "confidentiality of identity and personal information of a Poll Watcher," with "penalties on any election officer who discloses such." That idea is particularly important to Engelbrecht. In 2010, she put up security cameras around her home after an anonymous website posted the address and pictures of her Richmond home and business.

While King Street deals with litigation and works to extend its influence to the Capitol, Engelbrecht is trying to capitalize on the publicity by making the Houston activists models for other Tea Party groups. On Jan. 15, the Saturday after King Street came to Austin, Engelbrecht hosted a "statewide summit" at a Houston hotel. About 80 Tea Partiers showed up representing 14 counties in Texas, Washington, D.C., and four states: California, New Jersey, North Carolina and Florida.

The aim is to turn other Tea Party groups into organizations like King Street that can affect local elections. With municipal elections this year, Engelbrecht says it's time for King Street to hit the road and teach its methods to others.

"If each of our groups could focus on one guy, one candidate, then it could actually mean something because we could collectively cover the terrain," Engelbrecht says. "But I don't know. If I get this wrong, I get this wrong. It's not like I ever said I expected to get it right!"

Paul Knight, a former staff writer for the Houston Press, is a freelance writer living in Austin.

Recommend 19 recommendations. Sign Up to see what your friends recommend.

Rate this article: (1 vote)

Support me with a donation

Tags: National Politics

1 Comment

steven kite keep in mind that by King Street "Patriot" definition, the determining factor as to whether an election was honest is simply whether their candidate wins. If they win, no matter how much documented fraud occurs, it was a good election. If the other guy wins, there is no possible level of evidence to prove it was fair. Sociopaths all. We did this already, 145 years ago, but it looks like we'll have to do it again.

Please LOGIN to make comments. Not a registered user? REGISTER now!

back to top

CURRENT ISSUE

ARCHIVES

OUR REPORTING

- Top Stories
Purple Texas
Forrest for the Trece
La Linea
Tex In the City
The Contrarian
Op Ed
Urban Cowgirl
Leon Star State
Tags

STIMULUS

CAMPAIGN HQ

CULTURE

- Dateline
Critic's Notebook
State of the Media
Poetry
Eye on Texas
Books
Film
Food
Music
Photography

READER FORUM

The sharpest member-generated content in Texas.

PRIMARY SOURCES

The full documents we've used to report our investigative stories.

SUPPORT US

Become an Observer Partner

- Register
Subscribe
Renew

ADVERTISE with the Texas Observer

TEXAS OBSERVER STORE

- 1st Texas Observer ISSB
60th Anniversary Texas Observer Issue
Molly Wine Tribute Issue

CONTACT THE TEXAS OBSERVER

The Texas Observer
307 W 7th Street
Austin, TX 78701
(612) 477-0746
(800) 935-6620 toll free

ABOUT

- Vision and History
Staff
Board of Directors
Events
Privacy Policy
Terms and Conditions

SITE CREDITS

Web Editor: Jon Reel
Site Design: Emdash LLC
Architecture: Fosforo Films
© 2009-2011 The Texas Observer

The flier for True the Vote's national summit is viewable below.

TRUE THE VOTE NATIONAL SUMMIT






A CITIZEN LED INITIATIVE
TO ADDRESS THE VIOLATION OF OUR VOTE
AND THE INTIMIDATION OF OUR ELECTIONS

SPEND A DAY AND A HALF TO DISCUSS
EDUCATION • RESEARCH • TRAINING • MESSAGING • LEGISLATION
LEAVE EQUIPPED TO FIGHT THE VOTE IN YOUR STATE

SPEAKERS INCLUDE:
ANDREW BREITBART
JOHN FUND
ANITA MONCRIEF
CHRISTIAN ADAMS
MELISSA BOYER ANDERSON
AND MORE...

FRIDAY, MARCH 25TH
5:00 PM REGISTRATION AND RECEPTION
7:00 PM DINNER
7:30 PM SPEAKERS

SATURDAY, MARCH 26TH
8:00 AM REGISTRATION AND IDENTIFICATION BREAKFAST
9:00 AM - 5:00 PM FULL DAY OF TRAINING AND
INFORMATIVE SPEAKING LUNCH PROVIDED


PRICING:
FRID & SAT: \$150
(EARLY BIRD REGISTRATION THROUGH 3/15/11 \$100 (NON-REFUNDABLE DEPOSIT))
SAT ONLY: \$100
(EARLY BIRD REGISTRATION THROUGH 3/11/11 \$75 (NON-REFUNDABLE DEPOSIT))

INTERCONTINENTAL HOTEL
2222 WEST LOOP SOUTH
HOUSTON, TX 77027

SPECIAL ROOM RATE: \$85
CALL 1-281-374-8663 AND GIVE GROUP CODE 949V OR INDENTIFY THAT YOU WILL BE A PARTICIPANT IN THE KING STREET PATRIOTS TRUE THE VOTE NATIONAL SUMMIT. RESERVATION DEADLINE IS MARCH 11, 2011.

SPECIAL RATE CAN BE EXTENDED 3 DAYS PRIOR TO AND 3 DAYS AFTER EVENT DATES.

REGISTRATION IS REQUIRED FOR MEMBERS OF THE MEDIA.



(B/T the American Independent)

Other Stories Featured at TPM Muckraker



John Ashcroft Is Backwater's New Ethics



Holder: I Don't Know If Enhanced Interrogation



Administration Backs Off Tale Of Osama Bin Laden



NRA Drops Law Firm For Backing Out Of

TDP

TPMDC Morning Roundup — May 04, 9:01AM

Lawmakers Steer Clear Of Torture In Classified Bin Laden Briefing — May 04, 8:30AM

CIA Chief: Public Will Ultimately See Photo Of Dead Osama Bin Laden — May 03, 6:20PM

TPM Top News



FLASHBACK '08 McCain Slams Obama For Saying He'd Get Bin Laden In Pakistan



Congress Returns From Recess — To Decide Future Of The Country



Extra! Extra! WHCA Dinner 2011



With Pakistan Under Fire Over Bin Laden, Officials Urge Patience

ADVERTISEMENT

5/4/2011

True The Vote Signs Breitbart, Fund, Vo...

Chief

Helped Catch Osama Bin Laden

Using Wife As Human Shield

DOMA Defense



[Home](#) [Terms of Use](#) [Privacy Policy](#) [About TPM](#) [Jobs and Internships](#) [Archive](#) [Advertise](#) [Contribute](#) [FAQ](#) [Report Bugs and Site Issues](#)
© 2011 TPM Media LLC. All Rights Reserved.



KING STREET PATRIOTS

- Home
- About
- News
 - This Just In
- Calendar
 - Upcoming Events
- True the Vote
- Resources
 - Texas Voter and Election Information
 - America's Founding Documents
 - Videos
- Donate
- Contact
 - Media Kit

Search...



What We Do

True the Vote

elections

FREE AND FAIR Election fraud attacks the heart of our political system and threatens our rights as citizens. If you care enough to help, contact us today to become part of our action plan.

[Click Here to Volunteer for True the Vote](#)

Who We Are:

King Street Patriots takes its name from the original group of patriots who demonstrated in the streets of Boston in 1770 in response to confiscatory British policies enacted against the colonists. King Street was known as the hub of historic and patriotic acts of community activism. The Boston Massacre, tar and featherings, marches of the Sons of Liberty, routings of the Tea Party, and the ride of Paul Revere all unfolded on this cobblestone road. The protestations of King Street's activists sparked rebellion among the colonies and eventually culminated in the American Revolution.

It is in the same spirit that King Street Patriots has launched its efforts to battle the most brazen attempt by liberals in the last fifty years to further an agenda which Patriots considers diametrically opposed to the welfare of all Americans. King Street Patriots is committed to:

- Freedom
- Capitalism
- American Exceptionalism
- Constitutional Governance
- Civic Duty

To meet these ends, King Street Patriots proposes a solution which not only connects but activates like-minded citizens who value the founding principles of
<http://www.kingstreetpatriots.org/>

5/4/2011

King Street Patriots » A group of Americ...

this country and who are prepared to make great sacrifices to defend them.

This Just In

KSP Grand Opening Celebration!

King Street is thrilled to invite you to join us at the official Grand Opening of our new location. Governor Perry, Congressman Poe, Anita MonCrief, Hannah Giles and Steve Steinlight are just a few of the patriots who'll be there - and we want you there, too! Here's the catch - you MUST RSVP to [...]

Read More

Calls Are Needed!

Call the office of your senator with a clear message: vote no on any 2012-2013 budget that raids the state's rainy day fund. Tell the senator you expect a budget that lives within the taxpayers means. (The Capitol switchboard, available weekdays, is 512-463-4630.) Get your senator's direct number. You can get more information and talking points at [...]

Read More

Let Your Voice Be Heard...

... on the redistricting debacle that played out in the Texas Senate. Here's what happened last week (as vigilantly explained from Senator Patrick's frontline perspective and the Quorum Report). What can you do? The only stop left is the Governor's desk. Speak now or for the next ten years hold your peace. And what about the Budget and the [...]

Read More

Volunteer to work at the polls on May 14th

Did you know there will be than 50 elections in Harris County on 5/14? On the ballot will be school board and city council positions, along with many other issues (like multi-million dollar bonds) that effect you in your own backyard. Get informed and get involved. True the Vote training is going on now for poll workers. Click [...]

Read More

Bookmark this...

Bookmark this. Ever wish there was a trustworthy site that pulled all the top writers together in one place? This is that site - PoliticalNewsNow.com. Check it out.

Read More

Movie Night at King Street

Please join us for a screening of The Agenda. Have you ever wondered why America has changed so drastically in the last few years? The fantastic documentary The Agenda clearly connects the dots to reveal a master plan that every American must be aware of. Join us for 90 minute crash course in how we got here and [...]

Read More

KSP Grand Opening

Click the button below to register for the King Street Patriot's Grand Opening Celebration.

YOU ARE CORDIALLY INVITED TO JOIN
GOVERNOR RICK PERRY AND OTHER
CHAMPIONS OF LIBERTY AS WE CELEBRATE
THE GRAND OPENING OF OUR NEW HOME


7232 WYNNWOOD
HOUSTON, TX 77030

FOOD, MUSIC & CASH BAR
\$50 SUGGESTED DONATION
PER PATRIOT

MONDAY | 7PM
TO
MAY 16TH | 9PM

RSVP BY WED 24TH
REQUIRED FOR ADMITTANCE

MENTION BELOW TO REGISTER



Registration is required for entry. See you there!

What You Can Do

Join Our Email List

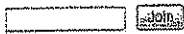
Enter Email Here:


TDP

<http://www.kingstreetpatriots.org/>

5/4/2011

King Street Patriots » A group of Americ...



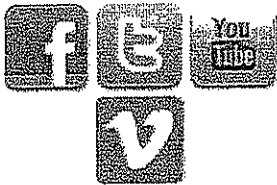
Powered by  SafeSubscribe™



Upcoming Events

- 05/09/2011
 - Meet "The Agenda" Director at 7:00 pm
- 05/16/2011
 - Grand Opening Party at 7:00 pm
- 05/23/2011
 - FairTax.com at KSP at 7:00 pm

Find Us On:



Local Writers and Issues

- [Big Jolly Politics](#)
- [BlogHouston.net](#)
- [Dr. Melissa Clouthier](#)
- [Harris County Almanac](#)
- [PubliusTX](#)
- [Rhymes with Right](#)

@KingStPatriots

- Come to "KSP Grand Opening Celebration" Monday, May 16 from 7:00 pm to 10:00 pm. King Street is thrilled to invite... <http://fb.me/MA11oVBx> about 20 hours ago from Facebook
- KSP Grand Opening Celebration! King Street is thrilled to invite you to join us at the... [#fb about 21 hours ago from Google](http://goo.gl/fb/WzLZS)
- Calls Are Needed!: Call the office of your senator with a clear message: vote no on any... [#fb about 2 days ago from Google](http://goo.gl/fb/t1nV5)
- Let Your Voice Be Heard... on the redistricting debacle that played out in the Texas... [#fb about 2 days ago from Google](http://goo.gl/fb/bLLDW)

© 2011 King Street Patriots

=

Defending and Preserving Liberty

- Home
- ABOUT
- EXTRAS
 - Soro\$ Secret\$
 - Eid or IED?
 - How the GOP really works
 - Liberal Lexicon
 - OBAMARAMA
 - The Czar List
 - Property taxes and alternatives
 - Enemies within the Patriot Movement
 - Journaling the Texas SBOE's Victory
- CALENDAR
- Submissions
- WIDGETS & BANNERS
- CONTACT
- Subscribe

Poll Watchers NEEDED!

by Sibyl West on October 22, 2010

Help True the Vote by Being a Poll Watcher

http://www.youtube.com/watch?v=WTaQW4hLGWI&feature=player_embedded



The Texas Election Code provides safeguards to protect voters from unlawful activity at the polls.

Trained and reliable POLL WATCHERS are the boots on the ground that make sure these safeguards are being followed. We will provide training for Poll Watchers for November 2 at your choice of two training sessions:

Tuesday, Oct. 26 @ 7 pm and Wednesday, Oct. 27 @ 10 am at the Travis County Republican Party Office at 7901 Cameron Rd., Bldg. #3 (burnt orange color), Suite 202.

1. You must be a registered voter

5/4/2011

Poll Watchers NEEDED!

2. You must bring your voter registration card to the training
3. You need to call 302-1776 to tell us you plan to attend.

You will be trained to represent the Republican Party at the polls. If you want to poll watch for a candidate on the ballot, you may attend this training and be assigned by the candidate.

YOU MUST OBTAIN A SIGNED AFFIDAVIT from the Approving Authority (county chair) in order to be accepted to poll watch by the presiding judge and our training is necessary to receive an appointment for the county party.

Please call if you have questions or want to attend the poll watcher training of your choice: 302-1776.

You might also like:

Breaking: King Street Poll Watchers Absolved of Harassment	Paxton Wins Straw Poll in a Landslide	Gallup Poll: Americans Most Likely to Favor GOP Newcomers ...

LinkWithin

{ 1 comment... read it below or [add one](#) }



[pokey](#) October 23, 2010 at 6:10 pm

Every one needs to respond to this,just do it,do it,do it,you wont regret it

Leave a Comment

Name *

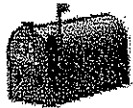
E-mail *

Website

Previous post: [Cornyn: TX-25 is a seat we can WIN!](#)

Next post: [An open letter to Jeff Barton](#)

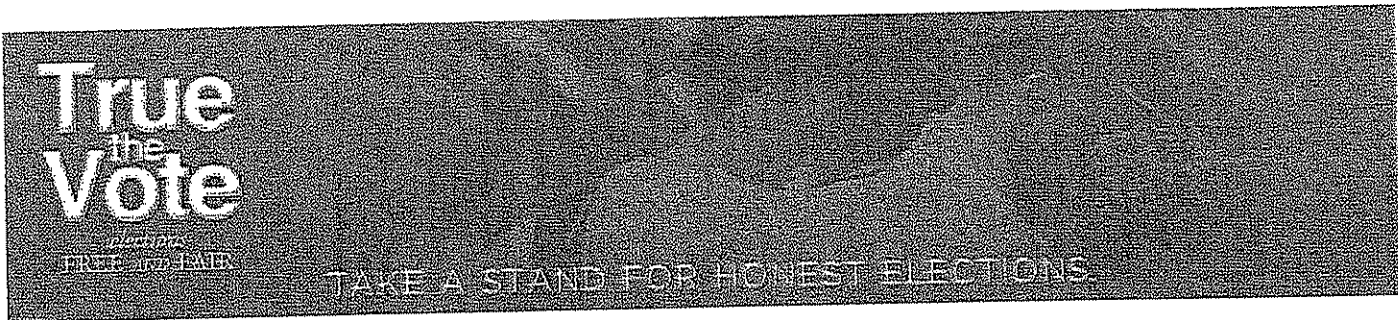
RAMPARTS360 *express*



Get FREE updates in your inbox.
Enter your email address below.

-
-





- Home
- What Fraud?
- Voting Integrity Issues
- Resources
- About TTV
 - Media Kit
- News
- Live

We testify!

Posted on Mar. 14, 2011 by [KingStPatriots](#) in [News](#)

On Tuesday March 1st, a King Street posse traveled to Austin to testify at the Texas House Select Committee on Voter Identification & Voter Fraud public hearing on SB-14 (the Photo Voter ID bill). We couldn't be prouder of the KingStreeters who stood up and had their voices heard. You can hear them, too....(Thanks to Colleen Vera for queuing up the video times!)

[Colleen Vera lays out her research](#) – fast forward to 1:50-10-1:53:00

[Alan Vera tells is like it was](#) – fast forward to 1:55:12-1:58:12

[Carol Kitson gives the state](#) – fast forward to 3:27:40 – 3:32:00

Leave a Reply

Name (required)

Mail (will not be published) (required)

Website

Contact Us

If you have questions about True the Vote or are interested in bringing True the Vote to your area, please contact us at info@truethevote.org.

Volunteer

Vote fraud attacks the heart of our political system and threatens our rights as citizens. If you care enough to help, contact us today to become part of our action plan.

Contribute

TDP
<http://www.truethevote.org/we-testify>

5/4/2011

True the Vote » We testify!



True the Vote has filed to be a section 501(c)(3) organization under the Internal Revenue Code. Contributions to True the Vote are tax deductible. True the Vote is an initiative to educate and train citizens to work within our electoral system to restore honor and integrity to the electoral process.

© 2011 True the Vote

==
"

BREITBART BREITBART CITY HIGHWOOD BIGJOURNALISM BIGPEACE



- [Home](#)
- [Exclusives](#)
- [Categories](#)
- [Contributors](#)



Free and Fair Elections: True The Vote Style

12 recommendations. Sign Up to see what your friends recommend.

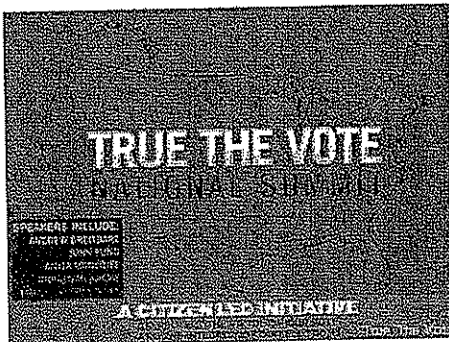
by [Warner Todd Huston](#)

I am here in sunny Houston, Texas attending the opening night of the [True The Vote Summit](#) and what a time it has been. We heard some inspiring speeches for this sold out event, saw some interesting attendees, and met an awful lot of great folks.

It has been thrilling to see several hundred handpicked Tea Partiers and local concerned citizens from 27 states here to learn how they, too, can stop vote fraud in their own districts using the methods learned the hard way in 2010 by the King Street Patriots here in Harris County, Texas.

You might recall back in Sept. of 2010 when the KSPers discovered an ACORN guy that had [registered over 23,000 fake voters](#) for the 2010 elections here in Texas. That was only the beginning of their efforts to root out vote fraud in one of the most corrupt Democrat controlled areas in the state.

Tonight we heard from True The Vote Chief Catherine Engelbrecht, former Minnesota Senator Norm Coleman, the Heritage Foundation's Hans Von Spakovsky, ACORN Whistle blower and American Majority Rep Anita MonCreif. All gave us spellbinding tales of vote fraud and how important it is to stop. Also in attendance was former Senate candidate from Alaska Joe Miller, RNC Chair candidate Saul Anuzis, and many others.



Today we'll hear from John Fund of the Wall Street Journal, J. Christian Adams who blew the whistle on the Obama administration's refusal to prosecute the Black Panthers in Philadelphia, and the boss himself Andrew Breitbart — and I even get some podium time to speak on using new media.

What follows is the encapsulated thrust of the messages we heard Friday night.

Catherine Engelbrecht

Head of The King Street Patriots and True The Vote Catherine Engelbrecht

The night began with a few words from the chief cook and bottle washer of the King Street Patriots and the True The Vote effort, the Texas dynamo Catherine Engelbrecht.

She warned us that, "across the country we have an epidemic low level of Americans participating at the polls." This is one thing that TTV is aimed at solving. To get Americans interested in the process is their goal.

"The underpinning of True The Vote is not the 'sizzle' of vote fraud," Engelbrecht said, "but it's the integrity of our voting process and that is the key focus."

The one thing that concerned me most was the fact that so many people have said that they just accept fraud as a part of the system. The underpinning of our system is the integrity of the vote, that our voices are heard.

Engelbrecht told us that those that the King Street Patriots invited to speak at this summit of concerned citizens were chosen, "because they each represent a small piece of the troubles that vote fraud and the system is facing."

The next speaker was ACORN whistleblower Anita MonCrief, herself a tireless advocate for a fair, balanced, and free election process. And she knows exactly how crooked the left is in its efforts to initiate vote fraud, too. She used to work for ACORN and saw it all first hand.

Anita MonCrief

MonCrief spoke and told us of her history with ACORN where she discovered that they spent \$28 million in 2004 from people like George Soros to register voters yet it was all fraud. "It was all smoke and mirrors," she said. ACORN was picking up fake ballots from fraudulent voters numbering in the thousands in hopes of pushing John Kerry over the top. When that didn't work they ramped it up even bigger for 2008.

In 2008 that effort worked. "ACORN is not just one organization," she warned us. "There are over 300 organizations that came together to put Obama into the White House in 2008."

Some of the things Anita saw would have violated the RICO statutes if anyone bothered to prosecute ACORN for its fraud.

5/4/2011

» Free and Fair Elections: True The Vote ...

ACORN also doesn't really care about "the little people" and that is one of the main reasons she turned against the crooked organization. Each and every year ACORN employees are going to jail for vote fraud but ACORN would always successfully pawn this fact off as the fault of "rogue employees," MonCrief marveled. ACORN never backed up the people they hired and always threw them to the wolves. And all these lower level employees were lied to, told that they deserved things from the government because of slavery or evil white oppressors. Then if they didn't buy that line, ACORN just paid them off to do the left's bidding.

MonCrief told us that the machinery of our system is such that when it is close it only takes a few votes here and there to pull the election in the left's direction. And we need to stop this left-wing, vote-stealing engine.

But MonCrief had a ray of hope for us. "They are terrified of what we are doing with True The Vote because this is the first time they have faced this sort of opposition. What you are doing here is something the left never thought the right could get done."

Hans Von Spakovsky

Next up was Hans Von Spakovsky, a former member of the Federal Elections Commission and the Justice Dept., a man who saw mounting fraud first hand. He's also seen the Clinton and Obama administrations refuse to prosecute it.

Von Spakovsky told us some hair-raising tales of Democrat administrations that ignored endemic fraud throughout the country. But he also warned us that courts and prosecution can't "fix" the system.

It is important not just to vote but to protect the integrity of the whole system. Criminal prosecution is simply not enough stop vote fraud it takes us all to get involved.

Like Anita, Von Spakovsky told us that it is in close elections when voter fraud is most useful for the left. And they flood the field with fraud in hopes of being ready for those close elections.

He also spoke on how successful voter ID laws have been. They are just common sense. But he also told us that the left's argument against these laws is built on outright lies.

The claim that photo ID would depress the minority vote is unproven by the facts on the ground. In Georgia and Indiana — the two states with the toughest ID laws — the voter photo ID laws showed record turnouts were not prevented in the 2008 primary when Obama ran for president. Voting doubled for minorities in many of these areas. Indiana has the strictest voter ID law in the nation, yet in 2008 the voters quadrupled in the state in 2008 with the photo ID law in place.

"The most important thing you can do to stop this," Von Spakovsky said, "is to work as an election judge in elections. If you are an election judge you can stop this fraud at the source. If you do that you are doing the best thing to protect the integrity of our election system."

We want to make sure that EVERYONE who is eligible to vote gets to vote. But was also want to make sure that the votes of those eligible voters don't have their vote stolen by fraud and that their votes count.

Finally we heard from former Senator from Minnesota Norm Coleman, a man who understands vote fraud intimately because he lost his seat in the senate by endemic Democrat vote fraud.

Norm Coleman

First of all, Coleman was very pleased with the efforts of TTV.

True The Vote is moving in the right direction. You are helping decide what is happening at the polls and this may seem a small thing but it is a great thing. The political games played with our elections should be of concern to every American.

Coleman gave us two examples where a single vote made a history changing difference, both involving himself. When he was elected as a Senator George W. Bush

5/4/2011

» Free and Fair Elections: True The Vote ...

was able to put through the candidacy of John Roberts as Supreme Court Chief Justice. Previous to Coleman's election, Robert's nomination died in committee. Roberts got in because Coleman became the one Republican Senator at the time that encouraged Bush to push the nomination again. One vote put John Roberts at the Supreme Court. Not but a few years later when Coleman lost to Al Franken due to massive vote fraud, Obamacare was passed with the one vote of Franken, the 60th supermajority vote. That one vote gave us Obamacare.

"One vote counts and we need to make sure the votes are legitimate," he said.

Coleman told us the horror story of Minneapolis. In 19 districts in Minneapolis there were more votes than actual voters and that sort of vote fraud elected Franken to the Senate.

He wrapped up with some recommendations on how we can fix this system.

What can you do to make sure that the vote has integrity. Number one, pass a voter ID law. Voting is the most important part of the underpinning of our nation. Folks died to insure that all Americans could vote. Aren't we making a mockery of those that died to insure a legal, fair election by allowing massive vote fraud?

Coleman reminded us of a stark reality. In some places, he said, in order to use a credit card at a McDonald's you need a photo ID. "If you need a photo ID to buy a Big Mac you should need a photo ID to vote," he insisted.

Another way to ensure the integrity of the vote is to get more of us to the polls as election judges. Election judges "are on the front line making sure that the elections are true and fair," Coleman said. "That is why I am humbled at what True The Vote is doing. You will put these judges on the front lines."

Whatever you do, do something. More directly do your part! I'm asking you to sacrifice just some of your time on election day. NOW is the time to start this because 2012 is coming soon. Do your part to keep this great republic vibrant.

Senator Coleman finished up by saying we should live our lives as if the world is in a balance and our own actions will tip the scales. As patriots we should do our part to make sure our system is a fair and free process.

More reports tomorrow evening after the training sessions and other speakers.



Email this to a friend | Print | Share on Facebook | Tweet this | ADD THIS

Tags: ACORN, Andrew Breitbart, Anita MonCrief, Election Fraud, King Street Patriots, norm coleman, voter fraud, "True the Vote"
Posted Mar 26th 2011 at 12:31 pm in Congress, Local Government, Obama, Politics, State Government, Tea Party | Comments (78)

Comments (78)

[Login](#)

Sort by: [Date](#) [Rating](#) [Last Activity](#)

[Login](#) or [signup](#) now to comment.

[Baroke Owebama](#) 95p · 5 weeks ago

+22

"It's not election fraud when we do it."

- National Socialist Democrat Workers Party

"Call us 'The Commies!'"

Reply

[Report](#)

[JohnK144](#) 119p · 5 weeks ago

+34

I'll bet that when obama was doing his anti-American "community organizing," he never dreamed of a day when real Americans would stand up and "community organize" against him and his ilk.

I applaud all these efforts. I support True The Vote because in a fair election, Conservatives win nationwide majorities every time.

Reply [1 reply](#) active 5 weeks ago

[Report](#)

[Whats Up](#) 124p · 5 weeks ago

+20

Thanks for sharing, Mr. Huston. Wish I were there. So much to learn, so much to know, so much to do ...so very little time. One thing WE have learned ...How to 'Morally and Ethically' Community Organize. YES WE CAN !!!

Reply

[Report](#)

[Baloshka](#) 109p · 5 weeks ago

-19

African ethics on full display.

TDP


5/4/2011

> Free and Fair Elections: True The Vote ...

[Report](#)

Reply [5 replies](#) · active 5 weeks ago

+25


 [MarkG](#) 113p · 5 weeks ago

The dyed finger is looking better each day.

[Report](#)

Reply [1 reply](#) · active 5 weeks ago

+24

 [Espook1](#) 92p · 5 weeks ago

Mr. Houston, thank you for the information. I have no doubt that the message of freedom will win in a free and fair election...but given the history of the last 20 yrs and the growing amount of voter fraud, I fear we may never see a free and fair election again. I applaud your comments and the work of True Vote organization to try and save our nation. I do not use that term lightly. When the time comes that our votes become meaningless there will be only one solution and the consequences of that will be horrific. Everyone must do their part to keep elections free or the alternatives will be a life as a slave.....or a second American Revolution.

[Report](#)

Reply [8 replies](#) · active 5 weeks ago

+18


 [JoelnMichigan](#) 91p · 5 weeks ago

Along with insuring that the voting process is as pure and fair as possible, I would like to see TTV also expose all the incidents of fraud that *do* take place - 99% percent of which are committed by and for democrats, including the Current Occupant.

[Report](#)

Reply [1 reply](#) · active 5 weeks ago

+18

 [pninni](#) 125p · 5 weeks ago


Our elections have degraded over the decades and especially with the Obamaite socialist Dems. Thank God for "True the Vote" and the great American patriots there. ... Looking forward to Purging the rolls of dead people, and of fraudulent "write-in" votes entered into the system during the Obama election. Photo IDs for all voting.

This is one of the most important articles ever. Our very freedom depends on it!

[Report](#)

Reply [8 replies](#) · active 5 weeks ago

+13

 [MSMediacritic](#) 118p · 5 weeks ago


This is obviously the work of a bunch of racists! Everyone who is reading this is a racist!!! All of you!!! Even the ones who didn't read it but are busy watching the NCAA basketball tournament and are microwaving popcorn because they don't want to listen to the stupid halftime analysis and wish the game would just start already!!!! Any restrictions that might prevent democrats from stealing elections is a racist plot. Racist racist racist racist!!!

/mentally deranged sarc off... way off..

[Report](#)

Reply [8 replies](#) · active 5 weeks ago

+8


 [dest4mex](#) 93p · 5 weeks ago

I am encouraged by the KSP's. This is the way we take back our country and instill the values of freedom and liberty. Not by sending more career politicians to DC. Or wannabe fake conservatives who lied to us and then went to DC and played ball with the GOP

[Report](#)

Reply

+5


 [LockesChild](#) 102p · 5 weeks ago

Of those thousands of fraudulent registrations, how many actually voted? Or is that an impossible question because once a fraudulent registration is known no vote is allowed. Fraudulent registrations that make it through the system and never detected are considered valid voters and legal votes?

[Report](#)

Reply

+9

 [pninni](#) 125p · 5 weeks ago

We're looking at tomorrow's leaders! Who said we have no new potential leaders?! We have plenty of them!

Obama, Holder, Pelosi and Reid gave US all of this strength, focus and energy. How ironic. We win and

Socialist Dems lose! Next we spend the next few years "cleaning house" All undesirables should start packing now!

American citizens are literally taking the Country back. Just in time.

[Report](#)

Reply

+12

 [JoelnMichigan](#) 91p · 5 weeks ago

Just as an aside - lest the importance of our massive victories in the Statehouses be lost on anyone - this is what *REAL* legislative power is. What is going on now in the Statehouses is much more radical (in the good sense) and will have much longer effect than anything our bone-headed Congress is up to.

5/4/2011

» Free and Fair Elections: True The Vote ...

And remember - it is a whole lot easier for us to affect what goes on in our Statehouses than it is to get our Congresspeople to do anything.

Reply [3 replies](#) · active 5 weeks ago

[Report](#)

 [onecomponent](#) 118p · 5 weeks ago

+18

Ain't it amazin' what a few PO'd TEXANZ can get done?;-D

DONT MESS WITH TEXAS!!! you damn commie b-turds!

Reply [3 replies](#) · active 5 weeks ago

[Report](#)

 [rainmaker1145](#) 102p · 5 weeks ago

+14

We're just getting started here in Houston. We have a big job ahead of us and this is the most dishonest place I've ever lived in. We need help!

Reply [2 replies](#) · active 5 weeks ago

[Report](#)

 [CHICAGO RALPH](#) 114p · 5 weeks ago

+12

".....The most important thing you can do to stop this," Von Spakovsky said, "is to work as an election judge in elections. If you are an election judge you can stop this fraud at the source. If you do that you are doing the best thing to protect the integrity of our election system"....."


If you live in a Democrat enclave and have the opportunity to.....

become a Republican election judge and you are not.....

you are part of the problem.

Reply

[Report](#)


 [Quavle2012_KNOT](#) .99p · 5 weeks ago

-21

It's great to see all those "Bleach the Vote" activists in one room. Joe Miller's presence was a nice touch as well. Did he bring his Security Chief, William Fulton, or is Fulton still on the lam following the unmasking of the plot to kidnap and kill Alaska State Troopers?

Reply [5 replies](#) · active 5 weeks ago

[Report](#)

 [widbil](#) 116p · 5 weeks ago

+7

"Many are puzzled that Democrats persist in ramming unpopular and destructive legislation down our collective throats with no apparent concern for their plummeting poll numbers. A widespread belief is that the Democrats are committing political suicide and will be swept from one or both houses of Congress with unprecedented electoral losses next November. But since Democrat politicians rarely do things that will not ultimately benefit themselves, this column asked two weeks ago, "What do they know that we don't?"

We may have found out. It's called universal voter registration. The Wall Street Journal's John Fund described the Democrat plan recently at a David Horowitz Freedom Center forum. Watch the video here.

Fund describes the proposal as follows:

In January, Chuck Schumer and Barney Frank will propose universal voter registration. What is universal voter registration? It means all of the state laws on elections will be overridden by a federal mandate. The feds will tell the states: 'take everyone on every list of welfare that you have, take everyone on every list of unemployed you have, take everyone on every list of property owners, take everyone on every list of driver's license holders and register them to vote regardless of whether they want to be ...'

Fund anticipates that Congress will attempt to ram this legislation through, as with the health care bill. What a surprise! Fund covers the vote issue at greater length in his book, How the Obama Administration Threatens to Undermine Our Elections.

- http://www.americanthinker.com/2010/01/what_the_d...
- <http://www.discoverthenetworks.org/tp/ARTICLES/Re...>
- <http://www.sourcewatch.org/index.php?title=Secret...>
- <http://dailycaller.com/2010/11/09/soros-supported...>
- http://www.redstate.com/republican_michigander/20...
- <http://spectator.org/archives/2009/12/04/soros-ev...>
- <http://www.secstateproject.org/results/>
- <http://www.secstateproject.org/>

Reply [2 replies](#) · active 5 weeks ago

[Report](#)

 [CHICAGO RALPH](#) 114p · 5 weeks ago

+9

"....."Bleach the Vote",....."

gots to do some cleanin there K NJT,.....

Went to go vote the other day and found out.....

the ballot box was stuffed with ACORNS.

Reply [TDP](#)

[Report](#)


 [Charles Kirtley](#) 97p · 5 weeks ago

+10

A lot of this problem could be solved if you had to present a valid i.d. when voting. It's telling that the Democrats are rabidly united against such laws.

[Report](#)

Reply

 [Chidog](#) 90p · 5 weeks ago

+7

Recently, neighbors in my area were organizing to change what school district kids in our area attend. We live in a city with a good school district, but live in a small area that belongs to a school district in a neighboring village which isn't as good.

Anyway, the first required step was to secure the signatures of 90% of homeowners who support th change.

They got the signatures and brought them to the appropriate authorities. It turns out that the list the 'authorities' use is a list of registered voters in our area, not a list of actual homeowners.


It turns out that many people who are still on the active voter rolls are dead or have moved away. The organizers said they would bring proof of the current occupiers/owners of homes, but the 'authorities' said that wouldn't do-they had to go by the official registered voter list-and the organizers would have to go to 'other authorities' to get the registered voter list updated.

This goes to show you two things; registered voter lists are messed up everywhere and it's ordinary citizens who have to take action to straighten this mess out.

Has anyone been voting in the name of the these dead people? Are people who have moved voting in more than one place?

[Report](#)

Reply [1 reply](#) · active 5 weeks ago


 [Forrelli](#) 126p · 5 weeks ago

+8

Let's pray for the King Street Patriots and the True the Vote efforts.

[Report](#)

Reply


 [peaches1](#) 93p · 5 weeks ago

+4

I am all for this. This is the real America; not Obama's phony one.

[Report](#)

Reply

 [ped ex 1p](#) · 5 weeks ago

-2


I find myself bothered by one line in this report:

"It has been thrilling to see several hundred handpicked Tea Partiers..."

Somehow, that line is just nagging at me.

[Report](#)

Reply [3 replies](#) · active 5 weeks ago

 [AverageJoeTexas](#) 81p · 5 weeks ago

+5

You have to have an ID to drink To drive. To vote is an even greater responsibility.

[Report](#)

Reply

1 2 [Next »](#)

Comments by

[Click Here For Complete PIGFORD Coverage](#)

Featured Story



[MORE SHOCK VIDEO: U of Missouri 'Labor Studies' Course Teaches How to Shut Down Non-Union Companies](#)

by [Dan Riehl](#)

PLEASE JOIN US FOR THE TRUE THE VOTE TEXAS STATEWIDE SUMMIT

JOIN FORCES WITH
FELLOW TEXANS
WORKING FOR FREE AND FAIR ELECTIONS

TRUE THE VOTE IN YOUR COUNTY
EDUCATION • RESEARCH • MEDIA • LEGISLATION

SPEAKERS INCLUDE:

ANTHONY GRIFFIN

FORMER ACORN EMPLOYEE AND FOUNDER EMERGING CORPORATION

CHRISTINA STAMM

FORMER DEPT OF JUSTICE ELECTIONS SECRETARY

FOUNDER ELECTION LAW CENTER

KELLY SHACKELFORD

FOUNDER LIBERTY INSTITUTE

FRIDAY, JANUARY 14TH @ 7PM RECEPTION

JANUARY 15TH • 9A - 5P

INTERCONTINENTAL HOTEL

2222 WEST LOOP SOUTH

HOUSTON, TX 77027

\$50 PER PERSON

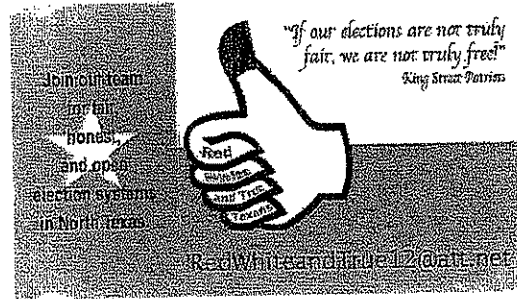
TO RSVP OR FOR MORE INFO, EMAIL:

TEXAS@TRUETHEVOTE.ORG

True
the
Vote

ASSOCIATIVE OF





Poll Watcher / Alternate Judge Training Day!

The training will be conducted by leaders from the King Street Patriots' and True the Vote Initiative, Houston, Texas.

When: Saturday, April 9, 2011

Registration: 8 a.m. – 9 a.m.

Training: 9 a.m. – 3:30 p.m.

Lunch will be provided

Where: Knights of Columbus Meeting Hall

2280 Springlake Road #100

Dallas, TX 75234

Registration Fee: \$35 (to help with venue costs and travel for 4 KSP volunteers)

For event schedule and to register, please go to:

<http://www.dallasyr.org/elections-integrity-boot-camp/>

Please direct your questions to: RedWhiteandTrue12@att.net

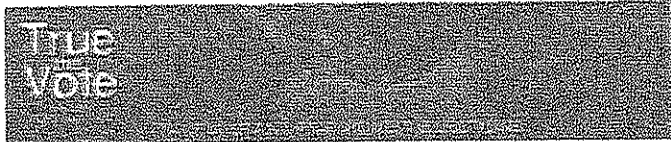
We need YOU!

*There is reason to believe that North Texas is being targeted
by the same groups that affected the vote fraud in Harris County*

If government refuses to follow the Rule of Law (Constitution),
then the last peaceful recourse for the People is to Vote the Violators Out.

Your vote is diluted when vote fraud is allowed at the polls!

This Webinar is
over



Webinar Over

The following Webinar is not available:
Poll Watcher Training Webinar - Thursday, 4/28 - 7:00 PM Central





Brazil & Dunn

Attorneys at Law

4201 FM 1960 West,
Suite 530
Houston, Texas 77068
281/580-6310 | office
281/580-6362 | fax
www.BrazilAndDunn.com

July 25, 2011

Scott Brazil
Board Certified Civil Trial
Board Certified Personal Injury Trial Law
Texas Board of Legal Specialization

Michael S. Hull
Hull Henricks, 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 E-Mail

Chad W. Dunn
Board Certified Personal Injury Trial Law
Texas Board of Legal Specialization

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 E-Mail

Margaret A. Wilson
807 Brazos Street, Suite 1014
Austin, TX 78701
*(Attorney for King Street Patriots, Inc.,
Catherine & Bryan Engelbrecht and
Dianne Josephs)*

By E-Mail

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 E-Mail

EXHIBIT "F"

July 25, 2011
Page 2

Kelly J. Shackelford
Jeffrey C. Mateer
Hiram Sasser, III
Justin E. Butterfield
Liberty institute
2001 Plano Parkway, Ste. 1600
Plano, Texas 75075

By E-Mail

(Attorney for King Street Patriots, Inc., Catherine & Bryan Engelbrecht and Dianne Josephs)

Jonathan M. Saenz
Liberty Institute
900 Congress, Suite 220
Austin, TX 78701

By E-Mail

(Attorney for King Street Patriots, Inc., Catherine & Bryan Engelbrecht and Dianne Josephs)

Re: Cause No. D-1-GN-11-00110; *Texas Democratic Party, et al vs. King Street Patriots, Inc., et al*; In the 261st Judicial District Court of Travis County, Texas

RULE 11 AGREEMENT

Dear Counsel:

This letter is intended to facilitate the efficient and timely resolution of this case.

Whereas the Plaintiffs herein ("TDP") have sued Defendants ("KSP") seeking damages and injunctive relief. Whereas KSP has claimed the statutes urged by TDP in the lawsuit are unconstitutional and therefore unenforceable. Whereas resolution of the case requires determination of KSP's constitutional claims. Whereas the parties seek resolution of their rights and responsibilities in advance of the next General Election. We have agreed to the following terms which shall be binding in the case referenced above and any such case or appeal stemming or severed there from.

1. Defendants' counterclaim that the underlying Election Code statutes are unconstitutional will be severed into its own cause number by agreed order. Counsel for Plaintiffs shall present the agreed order in chambers to Judge Dietz within 3 days.

2. The petition, as filed by TDP, and the Answer and counter-claim, as filed by KSP, shall be the pleadings in the new case unless timely amended by either party except that the only issue to be decided in the new case will be the constitutionality of the applicable statutes.

3. All other claims and defenses of the parties will remain in the old cause number.

4. The parties hereby stipulate they are preserving their positions on venue with regard to the old cause number. Nothing in this agreement or occurring in the severed case and subsequent appeal shall affect the parties' venue arguments in the original case. The

July 25, 2011

Page 3

parties' venue positions and facts shall remain as they were immediately prior to this agreement.

5. The parties agree the original case is abated until such time as the now cause number case is resolved.

6. The depositions scheduled for July 28, 2011 are cancelled and may be scheduled, as appropriate, after the original case is released from abatement.

7. In the new cause number, the parties will file cross-motions for summary judgment concerning the constitutionality of the underlying statutes. Either side may attach evidence they find appropriate subject to the objections of the other party as determined under the appropriate Rules. The parties' motions shall be due on August 31, 2011. The parties' responses shall be due September 16, 2011. All replies shall be due September 23, 2011. The hearing shall occur on October 3, 2011 unless otherwise scheduled by the Court.

8. KSP shall give immediate notice of its constitutional claims to the Texas Attorney General by certified mail. Such package shall include the pleadings from the new case and this agreement. KSP, upon receipt of delivery confirmation, shall file a certification in the new case that such notice was made, with attachment of the notice delivered and also including the delivery receipt evidence.

9. The parties hereby stipulate to the following facts:

- a. King Street Patriots, during and in advance of the 2010 General Election for State and County Officers, conducted, at its own expense, a training and recruitment program for poll watchers. Many of these KSP located and trained poll watchers were subsequently appointed to serve under Texas Election Code §§ 32.002-003 by the Harris County Republican Party Chairman and/or Republican Nominees with regard to the 2010 General Election for State and County Officers
- b. Plaintiffs, the Texas Democratic Party, Boyd Richie, John Warren, and Ann Bennett, using the private right of action found in Tex. Elec. Code §§ 273.081, 253.131, and 253.132, intend to enforce Texas Election Code sections 251.001(2), (3), (4), (5), (6), (7), (8), (9), (10), (12), (14), 253.031(c), 253.037(a)(1) and (b), 253.062, 253.094, 253.097, and 253.104 against Defendants-Counterclaimants, King Street Patriots, Catherine Engelbrecht, Bryan Engelbrecht and Diane Josephs, based on alleged political speech the Defendants-Counterclaimants have engaged in, and intend to continue to engage in, in the future.

July 25, 2011
Page 4

Please sign in the space below confirming our agreement.

Very truly yours,



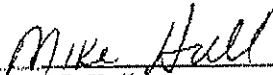
Chad W. Dunn
(Attorney for Plaintiffs)

CWD:kn

cc: Dicky Grigg
Spivey & Grigg, L.L.P.
47 East Avenue
Austin, TX 78701

By E-Mail

AGREED TO:



Michael S. Hull
Hull Henricks, L.L.P.
221 W. 6th Street, Suite 960
Austin, TX 78701
*(Attorney for King Street Patriots, Inc.,
Catherine & Bryan Engelbrecht and
Dianne Josephs)*

Date: 7/26/2011



Connect. File. Serve.

Welcome dunnw1
[Logout](#)

Subscription expires - 1/27/2012

- [Home](#)
- [Our Products](#)
- [About Us](#)
- [Promotions](#)
- [Support](#)
- [Jurisdictions](#)
- [Contact Us](#)

- o [Submit a Filing](#)
 - ▶ [New Case](#)
 - ▶ [Existing Case](#)
- o [Review Inbox](#)
 - ▶ [Inbox](#)
 - ▶ [eService Inbox](#)
 - ▶ [eService Report](#)
- o [Edit User Profile](#)
 - ▶ [Update Profile](#)
 - ▶ [Change Password](#)
 - ▶ [E-Service Profile](#)
 - ▶ [Billing History](#)
 - ▶ [Manage Subscription](#)

- | | | | | | | |
|---------------|---------------|---------------|---------------|---------------|---------------|--------------|
| Step 1 | Step 2 | Step 3 | Step 4 | Step 5 | Step 6 | Final |
| Filing | Filing | Attach | Additional | Party | Payment | Review |
| Attorney | Type | Documents | Attorneys | Information | Information | and Submit |

Status of your eFile Submission

Your filing has been successfully transmitted to the court.
Your trace number is ED227J016475882

Please print a copy of this confirmation page for your records.
Any questions with this eFile Submission please refer to
Trace Number ED227J016475882

[Main Menu](#)

Login Successful

WIN 10,3,183,8 FWF v2.0.1



eFiling Portal is an American LegalNet Product.

[Home](#) | [Our Products](#) | [About Us](#) | [Promotions](#) | [Support](#) | [Jurisdictions](#) | [Contact Us](#) | [Legal](#)
© Copyright 2011 American LegalNet, Inc. All rights reserved.