

May 2, 2013

Dear Senator,

Our organizations strongly urge the Senate to pass campaign finance disclosure legislation this year to close the gaping disclosure loopholes in the campaign finance laws. These loopholes resulted in more than \$300 million in secret contributions being spent by outside groups to influence the 2012 presidential and congressional elections.

The organizations include: Americans for Campaign Reform, the Brennan Center for Justice, the Campaign Legal Center, Citizens for Responsibility and Ethics in Washington, Common Cause, Democracy 21, Demos, the League of Women Voters and Public Citizen.

The American people have a basic right to know the sources of the funds being spent to influence their votes in federal elections. The Supreme Court made this clear in the *Citizens United* case where by an 8 to 1 vote the Court upheld the constitutionality of disclosure requirements for outside groups that spend money in federal elections. The Court recognized the important role that disclosure plays in informing voters and providing accountability, stating:

With the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters.

...

[D]isclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.

Since the *Citizens United* decision, disclosure opponents have brought a number of lawsuits challenging disclosure laws. The enclosed summary and chart of these cases prepared by the Campaign Legal Center shows that disclosure opponents have lost the overwhelming number of these cases.

According to the summary:

As the chart indicates, both the Supreme Court and the lower courts have rejected the vast majority of challenges to disclosure laws in the post-*Citizens United* period. The chart documents 31 different cases; only three of these 31 cases resulted in a disclosure law being invalidated. Further, two of these three cases (*New Mexico Youth Organized v. Herrera* and *Sampson v. Buescher*) were decided by the Tenth Circuit Court of Appeals, which is an outlier in terms of its jurisprudence on political disclosure. By contrast, the First, Fourth, Seventh, Ninth and Eleventh Circuits have all upheld strong disclosure laws applicable to independent spending following *Citizens United*. In addition, in four of the 31 cases, the court invalidated or narrowed a *portion* of the disclosure law, although frequently these decisions left most of the challenged law standing.

Our organizations supported legislation in the last Congress to close the disclosure loopholes. We continue to believe it is essential to enact effective disclosure legislation to end the hundreds of millions of dollars in secret contributions being spent to influence federal elections.

We also want to make clear again, as we did in a letter we sent to Senators on January 17, 2013, that we see no basis for increasing federal contribution limits, including the limit on the total amount an individual can give to all candidates, parties and PACs in a two-year election cycle.

Our January 17<sup>th</sup> letter to Senators stated with regard to the contribution limits:

These contribution limits are already extremely high. Only a miniscule number of the more than 300 million people who live in the United States can even consider making the current maximum allowable contributions. In fact, only 0.09 percent of adult Americans gave contributions of \$2,500 or more in the 2012 election, according to the Center for Responsive Politics.

Raising the existing party contribution limits would serve to further empower a tiny handful of the wealthiest Americans and to increase their ability to exercise undue influence over government decisions. This is wrong and would further damage our system of representative democracy.

Under the existing aggregate limit on individual contributions, a couple can already give a total of \$246,400, or almost a quarter of a million dollars, to candidates, parties and PACs in a two-year election cycle (a total of \$123,200 per individual giver per election cycle).

Similarly, if the national parties were not covered by the existing aggregate contribution limit, a Member of Congress could solicit and a couple could give \$388,800 to the national committees of a political party in a two-year election cycle (a total of \$194,400 per individual giver per election cycle to the three national committees of a political party). Through internal party transfers, furthermore, this total amount of \$388,800 could end up in one national party committee and be spent by the party committee to support the election of the Member of Congress who solicited the funds.

The aggregate limit on individual giving is already far too high and there is no basis for any increase in the limit or any change that loosens how it is applied. Any such increase or change would only serve to increase the access and influence of the wealthiest citizens in the country, at the expense of all other Americans. The aggregate contribution limit was upheld by the Supreme Court in the landmark *Buckley* case as necessary to prevent corruption.

Furthermore, any increase in the aggregate limit on individual giving would also serve to increase the amount that federal officeholders and candidates could solicit.

Even Justice Kennedy, who wrote the *Citizens United* opinion striking down the ban on corporate campaign spending, and who otherwise voted to strike down the soft money ban in the *McConnell* case, recognized the corruption problems inherent in federal officeholders soliciting

large contributions for their parties. In voting to uphold the ban on federal officeholders soliciting such contributions, Justice Kennedy said:

The making of a solicited gift is a *quid* both to the recipient of the money and to the one who solicits the payment (by granting his request). Rules governing candidates' or officeholders' solicitation of contributions are, therefore, regulations governing their receipt of *quids*. This regulation fits under *Buckley's* anti-corruption rationale.

Our organizations strongly urge you to support the passage of effective disclosure legislation in this Congress and to maintain the existing contribution limits.

Americans for Campaign Reform

Brennan Center for Justice

Campaign Legal Center

Citizens for Responsibility and Ethics in Washington

Common Cause

Democracy 21

Demos

League of Women Voters

Public Citizen