



The University of Mississippi

Faculty
Law Center
University MS 38677
(601) 232-7361

September 6, 1992

Office of the General Counsel
Federal Election Commission
999 E Street, NW
Washington, D.C. 20463

AOR 1992-35
20 DAY

Gentlepersons:

I represent Mr. Jon Khachaturian, an independent candidate running for the United States Senate in Louisiana. Pursuant to 11 U.S.C. § 112.1 an advisory opinion is sought concerning the applicability of 2 U.S.C. § 441a (limiting individual contributions to \$1,000) to his campaign.

On August 20, 1992, Mr. Khachaturian qualified as a candidate for the United States Senate by paying a filing fee of \$600. As of the date of this filing, he has accumulated a campaign fund of \$21,000 and pledges totalling \$4,000 more. See Appendix A (affidavit of Mr. Khachaturian). Were it not for the \$1,000 limitation, however, he would have collected in excess of \$175,000 for the campaign. See Appendices C - Q (affidavits of potential contributors indicating amount they wish to give to the campaign). As a result, he now finds that he is unable to mount an effective campaign against his Democratic opponent. See Appendices A & B (affidavits of Mr. Khachaturian and his campaign coordinator). Finally, attached as Appendix R is a brief memorandum of law explaining our position as to why an exemption to section 441a should be granted.

The issue: should section 441a be applicable to an independent candidate who clearly demonstrates that the restriction precludes the mounting of an effective campaign against party candidates? Thanking you in advance for a prompt response, I am

Sincerely yours,

George Cochran
George Cochran
Counsel for Jon Khachaturian

SEP 10 1992

SEP 10 1992

Jon E Khachaturian
5827 Rhodes Ave, New Orleans, Louisiana 70131

September 8, 1992

From Jon E Khachaturian
Independent Candidate for U S Senator from Louisiana

To Concerned Parties

Reference Affidavit of Intent in Legal Suit to Revise the
Federal Election Campaign Finance Laws to Allow the
Participation of Ordinary Citizens in the Political Process

925710
11-13
FERRIS
FERRIS

My name is Jon Khachaturian I am a resident of Louisiana and live in New Orleans with my wife and three children I own a small business, Versabar Inc, which employs eighteen people We rent heavy lifting equipment and rigging for the lifting and handling of oil field modules and decks

On August 20 1992 I qualified to run as an independent for United States Senator from Louisiana I did so because I felt that some challenge was required to our incumbent, and no candidate of significant strength had declared

Although I have a small group of strong support within the local business community, I personally have no political base and have never before run for political office My plan is to access the voting public through the radio television and newspaper media Along with the impact of other minor (particularly Republican) candidates I feel that within Louisiana's open primary system it is possible to force the incumbent Democrat into a run-off election

To begin an effective media campaign within the short time remaining until the October 3rd election an estimated minimum of 250 -300,000 dollars would be required However, I have found that with the Federal Election Campaign Laws limiting the maximum contribution from an individual to \$1000 execution of a realistic strategy is impossible I have been able to collect combined pledges totaling over 200,000 dollars from concerned supporters who would be willing to contribute these funds in the event the Campaign Finance Laws are changed to reflect the real costs of running an effective campaign in modern political races Together with my personal contribution of \$50,000 my campaign fund potential of 250 000 dollars puts me up to an amount allowing me to run an effective campaign However with the arbitrary limit of \$1000. my fifteen contributors, willing to donate \$200 000 to my campaign, are only allowed to contribute \$15,000

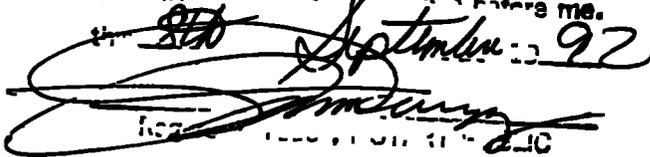
This restriction virtually eliminates me as a serious candidate Further, without the competition within the primary, the incumbent, with his nearly 3 million dollar campaign war chest, is effectively un-opposable Finally, it is important to note that although party candidates are subject to the \$1000 limits, they have greater access to political action committees (PACS) which can contribute up to \$5,000 and are also eligible for a coordinated campaign contribution of up to \$400,000 for the Louisiana Senate race

If I do not win this election I fully intend to run again for U S Senate should the legal path be cleared enabling me to raise a reasonable amount of campaign funds

Respectfully,



Jon E Khachaturian

SWORN TO before me.
the 8th September 92


Beuerman Consultants

228 St Charles Avenue
Suite 1333
New Orleans LA 70130
504 524 3342
FAX 504 524-3344

August 22, 1992

Mr Jon Khachaturian
Khachaturian for Senate 92
1180 Destrehan Avenue
Harvey, LA 70058

Dear Jon

As requested I have prepared the following abbreviated political plan for your campaign for United States Senate. Please bear in mind the extreme difficulty of what you as an independent candidate with no statewide name identification are seeking to do in such a short period of time.

Your task is made more difficult still by the absence of potential cash and "coordinated" funds which your Democrat and Republican opponents will be able to access.

At this point, I believe your options are somewhat limited, as is your opportunity for victory on October 3rd. Consequently, what I am advocating includes choosing a few specific political and geographic targets, rather than attempting to run a statewide campaign on such restricted means.

In complete candor, as we have discussed before, it is fair to reiterate that given the financial constraints on your campaign, and the lack of any available national Party money or organization, your campaign may simply be that of a "spoiler", perhaps serving to the advantage of Breaux's Republican challengers. While this is certainly not your goal, it may well be the political reality.

Please call me if you have questions or need additional information.

Cordially,

Greg Beuerman

92 SEP 10 AM 11:13
JON KHACHATURIAN

Beuerman Consultants

228 St Charles Avenue
Suite 1333
New Orleans LA 70130
504 524 3342
FAX 504 524 3344

POLITICAL CAMPAIGN PLAN
PREPARED FOR
JON KHACHATURIAN
FOR SENATE '92

August 22, 1991

STRATEGY STATEMENT

The Khachaturian campaign effort will be an insurgency campaign designed to tap into the high level of voter frustration and middle class taxpayer discontent in Louisiana. A central premise will be that Jon Khachaturian must establish a high level of name identification in a short period of time, while raising issues of local and national significance. Also central to your success is the ability, using considerable research materials to link Senator Breaux directly to the crisis of public confidence by virtue of his record, his actions and his statements.

For our purposes based on your current pledges of around \$250,000 and projections, I am using the figure of \$450,000 as a basis for expenditures.

This abbreviated plan shall also focus on targeting limited resources to reach the most likely constituencies for your message, both in political and geographic terms.

KEY ISSUES

Term limitations
Deficit spending/unbalanced budget
Voter discontentment/unhappiness with both political parties
High business and personal taxes
Poor economy
Size of government bureaucracy
Tort reform
Exportation of jobs abroad
House Bank scandal/Breaux's advocacy of a Senate Bank

92 SEP 10 11 11 AM '91

PHOTO COPY
PROCESSED
10/11/91

Breaux as number one Senate junket taker
 Breaux's relationship with David Paul
 Special interest PAC money
 Breaux as a professional politician
 Need for more small business owners in Congress

01-11-96
 11:11
 11:11
 11:11

KHACHATURIAN STRENGTHS AND WEAKNESSES

Strengths fighter

self-made businessman
 leadership role, constituency within Louisiana '96
 positions on term limits, taxes, tort reform, campaign finance
 reform, deficit spending and a balanced budget
 "new face"
 independent of either Party
 significant personal resources
 ability to raise funds from friends and business associates
 can campaign nearly fulltime
 young, family man

Weaknesses low name ID

huge campaign war chest disadvantage
 no large statewide organization
 no national Party to support your campaign
 limited time before election day
 lack of media interest
 lack of immediate media credibility
 voter belief that Breaux cannot be beaten
 voters need to be educated on Breaux's performance

CAMPAIGN BUDGET

| | |
|---|-----------------|
| Overhead Management, consulting, small staff | \$15,000 |
| rent, telephones, long distance, travel | 6075 |
| Materials signs (250 2x8) | 2250 |
| signs (2500 14x22) | 2450 |
| push cards (25,000) | 1558 |
| sign stakes (3000) | 870 |
| bumper strips (1000) | 600 |
| lapel stickers (5000) | 800 |

Phase 2 (September 11-22)

You need to be "on the air" as quickly as possible in most if not all of the state's media markets. Audiences should be targeted, and dollars allocated according to what political and geographic priorities you have established.

Your buys should be heavy and consistent. Because you have such a limited amount of time, I would recommend that you combine both your personal introduction phase and any issue attacks.

Phase 3 (September 23-October 3)

What you will hope to achieve is both an element of surprise and a groundswell of support based on your message of reform. In the potential crossfire between Breaux and the Republican challenger, you as an independent have an outside shot at garnering votes of people who are fed up with both parties and are looking for an alternative.

You should continue to cultivate earned media opportunities and travel as much as possible during this time.

A voter ID and get-out-the-vote mechanism, such as those the Democrats and Republicans will have is going to be impossible without national "Party" money and technical assistance.

CONCLUSION

There are other essential elements of a political plan which must be developed in the near future. Among these are vote projections, parish priorities, and inventories of key opinion makers and voter coalitions as well as the production of necessary campaign materials and media tools.

At the appropriate time, I will be happy to give you the benefit of my experience and opinions on these subjects also.

budget continued

| | |
|---|-----------|
| Printing miscellaneous including office letterhead, art | 9500 |
| Direct mail targeted households (325,000) inclusive | 95,000 |
| Postage headquarters use, etc | 1500 |
| Earned Media Press kits, materials, photography | 1125 |
| Research | 4500 |
| Events parties, fundraisers, rallies | 12,000 |
| Advertising Radio | \$54,000 |
| Television (cable) | 17,550 |
| Television (network and independent) | 207,500 |
| Print | 9500 |
| Advertising production, shipping | 20,500 |
| | <hr/> |
| | \$462,278 |

CAMPAIGN TIMELINE

Phase I (August 25-September 10)

This time should be spent researching Breaux's voting record and public statement, accumulating background materials on Congress, the budget, deficit, etc , as well as developing your own personal position papers on key issues. Additionally, during this time you should be preparing and distributing press kits and bios, travelling the state meeting political reporters and editorial boards, and working to build something of an expanded base of supporters.

By September 5 a letter should be sent to all Louisiana '96 members inviting each to participate in the campaign. Literature should be enclosed.

You should also make a major effort to identify and tap into the many supporters of Ross Perot, particularly those who are regarded as leaders.

Finally during this time, your media consultants should be pricing network and cable television stations, radio stations and widely read newspapers for ad purchases.

LAS Enterprises

September 2, 1992

92 SEP 10 AM 11:13

RECEIVED
SEP 10 1992

Mr. Jon Khachaturian
5827 Rhodes Avenue
New Orleans, Louisiana 70114

Dear Jon,

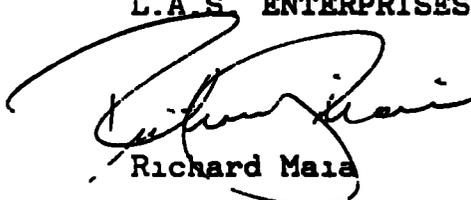
I think it is a great idea that you have decided to run for the U.S. Senate. We need more business - minded people in Congress who understand the cause and effect of their monetary decisions. I agree strongly with your stand on the national health care program promoted by the democrats and your decision to support term limits for our Congressmen and Senators.

I am prepared to offer you a \$5,000.00 campaign contribution to help you get the ball rolling. I do see your point, however, that with only a \$ 1,000.00 limit in my donation capacity you are in for a tough time with the election upon us.

Good luck in your campaign, you have my vote.

Sincerely,

L.A.S. ENTERPRISES



Richard Maia



App. C



**Bishop Lifting
Products, Inc.**

P O Box 15618
Houston Texas 77220
(713) 674 2268
FAX (713) 672 9229

August 28, 1992

92 SEP 10 4 11-13
FBI
Houston

Mr. Jon Khachaturian
5827 Rhodes Avenue
New Orleans, Louisiana 70131

Dear Jon

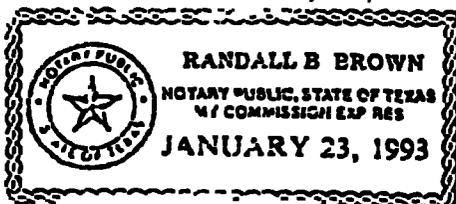
Congratulations on your decision to run for the U.S. Senate! We have talked over the year, and I feel that we are very much aligned on our political philosophies. It is my opinion, as it is your's, that **TERM LIMITATION** and **TORT REFORM** are two key issues that must occur for our country to regain it's aggressiveness.

For this reason I would like to pledge \$5,000 00 towards your campaign, if it is legally acceptable to do so. Let me know of other ways that I may help, and **GOOD LUCK!**

Sincerely,

David J Bishop
35 East Terrace Drive
Houston, Texas 77007

Randall B. Brown
8/23/92



App. D



AUGUST 31, 1992

JON KHACHATURIAN
5827 RHODES AVE
NEW ORLEANS, LA 70131

RE CANDIDATE FOR U S. SENATE RACE

DEAR JON

I WAS INTERESTED TO LEARN THAT YOU HAVE ENTERED THE RACE FOR U S SENATOR FROM LOUISIANA. WE NEED MORE PEOPLE LIKE YOU STEPPING UP AND RUNNING FOR PUBLIC OFFICE.

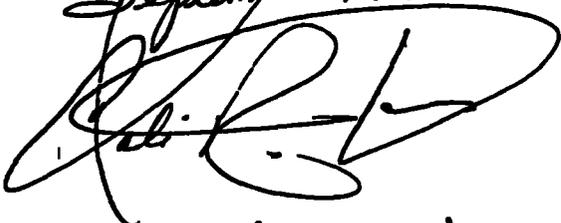
I WOULD LIKE TO PLEDGE \$5,000 00 TO YOUR CAMPAIGN AGAINST SENATOR BREAUX I UNDERSTAND THAT THERE IS A LEGAL LIMIT OF \$1,000 00/INDIVIDUAL THAT HAS BEEN ARBITRARILY PLACED BY CONGRESS ON YOUR ABILITY TO RAISE FUNDS HOWEVER IF YOU CAN OBTAIN LEGAL CLEARANCE FOR THIS HIGHER AMOUNT THE MONEY IS READILY AVAILABLE

I LOOK FORWARD TO HEARING FROM YOU!

SINCERELY,


JIMMY I. DESSELE

*Sworn to and subscribed
before me this 1st day of
September 1992*



*My Commission Expires:
12-31-96*

APP E

92SEP10 11:11:13

RECEIVED
SEP 11 1992

David Ronald Lee
709 Michelle Court
Gretna, Louisiana 70072

September 3, 1992

92 SEP 10 1 11 13

FEDERAL BUREAU OF INVESTIGATION

Dear Mr. Khachaturian,

I am pleased to learn that you are running for the United States Senate. I would like to pledge \$5,000.00 to your campaign. I understand that this will only be possible if you are able to overturn the \$1,000.00 limit on donations.

Good luck in the election.

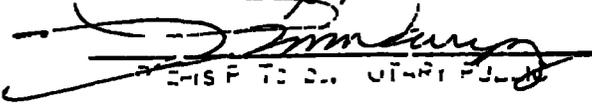
Sincerely,



D. Ronald Lee

SWORN TO AND SUBSCRIBED before me.

This 3rd day of September, 1992



NOTARY PUBLIC

App F

September 3, 1992

Steve Suarez
1728 Lake Michigan Drive
Harvey, Louisiana 70058

92 SEP 10 AM 11:13

FROM: [unclear] TO: [unclear]

Dear Jon,

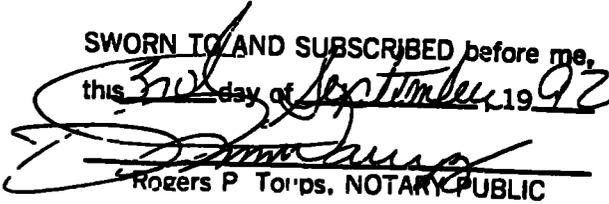
I pledge \$5,000 to your campaign for the United States Senate. If you can get our courts to rescind the \$1,000.00 campaign contribution limit, you can come and pick up the check!

To get congress to address term limits, the deficit, etc. is a huge job, but we have to start somewhere!

Sincerely,


Steve Suarez

SWORN TO AND SUBSCRIBED before me,
this 3rd day of September, 1992


Rogers P. Torres, NOTARY PUBLIC

App. 6

Mr. Jon Khachaturian
1180 Destrehan Ave.
Harvey, Louisiana 70058

92 SEP 10 A 11:13
101511

August 28, 1992

Jon:

Please be advised that I Kenneth J. Boudreaux here by pledge a donation of \$5,000.00 to your campaign fund. As you are aware, these funds will be available for your campaign only if you can clear the legal matters of maximum contributions of \$1,000.00 by the October 3, 1992 Primary.

Jon, I look forward to hearing from people with views like yourself and attacking issues concerning Term Limits, etc.

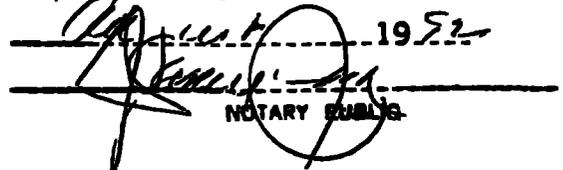
Good Luck on your quest to the U. S. Senate.

Sincerely,



Kenneth Boudreaux

SWORN TO AND SUBSCRIBED BEFORE
ME, NOTARY ON THIS 31 DAY OF

August 1992

NOTARY PUBLIC

APP. H.

RECEIVED
SEP 10 11:11 AM '92

September 2, 1992

Mr. Jon Khachaturian
5827 Rhodes Avenue
New Orleans, LA 70131

Dear Jon:

I am excited to learn that you are running for the United States Senate from Louisiana. Its about time that we had someone to stand up and speak on the issues that are important to us all such as term limits and tort reform. I am pleased to pledge \$10,000 to help with your campaign. I have enclosed a check for \$1,000 and will be most pleased to send you the balance of the pledge if you can obtain a court ruling to invalidate the current limit on contributions.

Good luck and please call if I can do anything else.

Very truly yours,

William C. New, P.E.
409 Jacobs Street
Berwick, LA 70342

Thus done and signed this 4th day of SEPTEMBER 1992 at Morgan City, La.

ATTEST:



William Colon New



NOTARY PUBLIC

APP J.

Narbey Khachaturian
207 South Adams Street
Philo, Illinois 61864-0026

August 29, 1992

92 SEP 10 11 13

RECEIVED
SEP 10 11 13

Mr Jon E. Khachaturian
5827 Rhodes Avenue
New Orleans, LA 70131

Dear Jon:

Enclosed is a check for \$ 1,000 as a contribution to your campaign fund for election to the United States Senate seat from the State of Louisiana. I feel very strongly that the time has come to make major changes in the legislative branch of our government and your proposed agenda represents a timely response to our needs

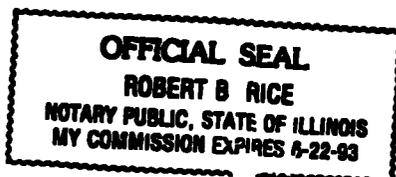
I am sorry that because of the limitations imposed by law I cannot contribute more I feel that the changes are so necessary for our survival, that I would gladly contribute as much as \$ 10,000 if it were legally possible.

With best wishes for a successful campaign

Sincerely yours,

Narbey Khachaturian
Narbey Khachaturian

SUBSCRIBED AND SWORN TO BEFORE ME, BY NARBHEY KHACHATURIAN, WHO IS PERSONALLY KNOWN TO ME, THIS 31ST DAY OF AUGUST, 1992:



Robert B. Rice

ROBERT B. RICE
Notary Public, Philo, IL 61864

Enclosure

App. k

92 SEP 10 AM 11:13

RECEIVED
SEP 10 1992

August 31, 1992

Mr. Jon Khachaturian
5827 Rhodes Ave
New Orleans, LA 70131

Dear Jon:

It's my pleasure to send you \$1000.00 in your quest for the Senate seat in Louisiana. If allowed, I would gladly give you at least \$10,000.00 in your efforts to unseat the incumbent democrat that I understand has raised somewhere between two and a half and three million dollars in the event he is given any challenge in the primary.

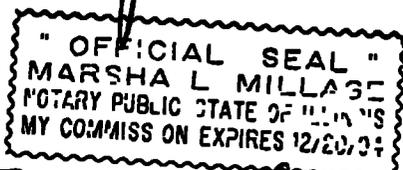
I also agree that there is a dire need for term limits. Without them, I don't see any hope of taking back our country as you talk about.

We need legal reform, less perks for those on Capitol Hill, and more opportunities for the common every day working person.

I fully support your campaign. Just contact me in the event it becomes legal to give you more then what I have already enclosed.

Sincerely

Steven Jay Khachaturian
Steven Jay Khachaturian



Marsha L Millage
Sworn + subscribed to
me on this 1 day of
September 1992

App L



TOTAL ENGINEERING SERVICES TEAM, INC
 HOME OFFICE 871 WHITNEY AVENUE, BLDG A • P O DRAWER 1780 • GRETN, LOUISIANA 70054
 (504) 368-6792 • FAX (504) 368-6812

92 SEP 10 4:11:13

August 27, 1997

Mr. Jon Khachaturian
 Khachaturian for Senate
 1180 Destrahan Avenue
 Harvey, LA 70058

Dear Jon,

I think that it is exciting that you have decided to run for the Senate in opposition to Senator Breaux. As I mentioned in our conversation last week, I don't think there is any way that you have a chance to win with the current limitation to campaign contributions set-up to protect the incumbents by the incumbents. Isn't it amazing how that works.

As an owner of several businesses in this district I feel that you would represent me and my employees much more adequately in the Senate in the areas of term limitation and tort reform. Additionally, your opposition to supporting entire industries such as agriculture and automobiles while our energy industry dwindles is very important. As you well know, the energy industry has lost more jobs that the auto industry which is continuously supported by Washington democrats. This just burns me up!

If the law is changed or a legal ruling issued which would allow you to accept a contribution of \$10,000.00 for this race I would be more than happy to make a donation of that amount to your campaign.

Sincerely,

Philip S. Rundle
 President

Sworn to me this date 2 11 1997
 Notary Public [Signature]

ROBERT M. FOSTER
 Embossed hereon is my Jefferson Parish,
 State of La Notary Public Seal
 My Commission is renewed for 4 1/2.

App M

Lagos, Nigeria

Singapore

Manama, Bahrain

DICK H. PINER
4401 PATTERSON DRIVE
NEW ORLEANS, LOUISIANA 70131

92 SEP 10 AM 11:14

RECEIVED
SEP 10 1992

MR. JON KHACHATURIAN
KHACHATURIAN FOR SENATE
1180 DESTRAHAN AVENUE
HARVEY, LOUISIANA 70058

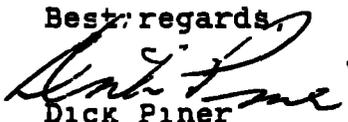
Dear Jon

I am proud that you are running for the Senate in opposition to Senator Breaux. I do not think he has voted nor taken actions in the best interest of the people he represents on issues such as pay raises, tort reform, term limits and others

I am inclosing the maximum \$1000.00 that I am allowed to give according to the law---the law which was made obviously to protect the incumbents

If the law should be changed, or a legal ruling would allow, I would be in a position to contribute \$75,000.00 or even \$100,000.00 to your campaign in an attempt to equalize your chances against the several million dollars Senator Breaux has accumulated for his campaign

Best regards,



Dick Piner

Sworn to and subscribed before me this

31st day of August 1992



Notary Public

F. L. De SALVO

Embossed hereon is my Jefferson Par.
State of La. Notary Public Seal
My Commission is issued for Life

App O

9-8-92

Mr. Jon Khalaturian
c/o Versabar, Inc
1180 Destraban Avenue
Harvey, La.

92 SEP 10 AM 11:14

FILED IN 11-11-92

Dear Jon -

It's great to see your candidacy for the U.S. Senate! I want to do everything possible to help you get elected. Quite frankly, I'd offer more than the \$1,000 limit if federal law would permit. Realistically, I'd like to help you by raising my share to \$5,000. If you can get this law changed, I'd do it in a second!

As you realize I try to do everything on the "up" - because of your independent registration that grey area of contributing to the party or starting a PAC are not options! I don't agree with either method as a means of "getting around the system".

You stand for the right issues - it's too bad we've created a system where good men can't get elected without playing on a different playing field from the common man!

Always the best,

Greg Cruise

2853 Ramsey Drive
N.O., La 70131

U.S. SENATE
September 5 1992
REG. OF THE SECRETARY OF PUBLIC

John Bruskotter
5111 General Meyer
New Orleans, Louisiana 70131

September 8, 1992

92 SEP 10 AM 11:10

RECEIVED
SEP 10 1992

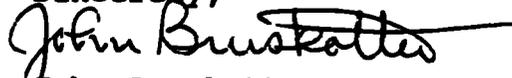
Dear Jon,

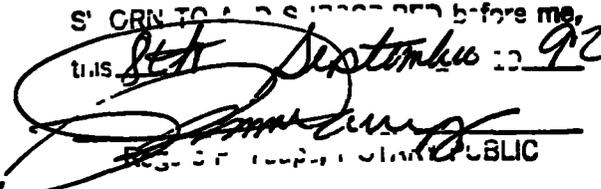
Congratulations on your decision to run for the United States Senate.

As I have said, I will pledge \$5,000.00 to your campaign if you succeed in overturning the \$1,000. 00 legal limit.

You have my vote.

Sincerely,


John Bruskotter

SEEN TO A ... before me,
this 8th September 1992

REG. OF ... PUBLIC

App. Q

MEMORANDUM IN SUPPORT OF REQUEST FOR EXEMPTION

92 SEP 10 AM 11:14

FEDERAL ELECTION COMMISSION

FACTS:

Jon Khachaturian is currently a candidate for the position of United States senator from the state of Louisiana. He is running as an independent, without the backing of any major party. The primary issue upon which he intends to campaign is that of election reform. Specifically, he supports term limitations. See Appendix B (listing all of the main issues Mr. Khachaturian intends to raise).

Although the election is quickly approaching, Mr. Khachaturian's campaign has not yet gotten underway because he has been unable to raise the funds necessary to start-up an effective campaign. His ability to raise funds has been drastically limited by the Federal Election Campaign Act, 2 U.S.C. § 441a (1985), which prohibits candidates for federal office from accepting donations in excess of \$1,000 from individuals. But for this limitation, Mr. Khachaturian would have already raised sufficient funds to begin his campaign. Accordingly, Mr. Khachaturian seeks an exemption from the contribution limitations contained in section 441a, thereby permitting him to conduct his campaign for the position of United States Senator for the State of Louisiana.

LAN R

ARGUMENT

A. The Plight of the Independent Candidate

Unlike candidates from the major parties, independents and minor party candidates, at least those who can establish that section 441a limits have prevented potential donors from making significant contributions, are hurt by these limits on donations. The major parties can rely on their position of power and the ability of their organizations to raise money in order to win campaigns. For them, these limitations may level the field vis-a-vis one another, but they effectively exclude any third party challengers.

The Supreme Court has recognized the existence of spending limits imposed on the national parties and particularly their senatorial campaign committees... but apparently no federal judge has ever ruled on a direct challenge to these limits. Presumably this is because the national parties, having enacted the spending limits through bipartisan legislation, have not been inclined to try to upset them.

Federal Election Com'n v. National Republican Senatorial Com., 761 F. Supp. 813, 821 n.10 (D.D.C. 1991) (citation omitted).

Major party candidates are unlikely ever to challenge these limits, because they work to the advantage of those who are in power. For one thing, those in office have less need for money than does a minor party candidate.

Although some incumbents are defeated in every congressional election, it is axiomatic that an incumbent usually begins the race with significant advantages, In addition to the factors of voter recognition and status accruing to holding federal

office, the incumbent has access to substantial resources provided by the Government. These include local and Washington offices, staff support, and the franking privilege. Where the incumbent has the support of major special-interest groups... and is further supported by the media, the overall effect of the contribution and expenditure limitations enacted by Congress could foreclose any fair opportunity of a successful challenge.

Buckley v. Valeo, 424 U.S. 1, 31 n.33 (1976) (noting that the Court would elsewhere hold the limit on personal expenditures unconstitutional).

In addition, major parties are in a better position to raise large sums of money within the confines of the federal limitations. See id. at 28, n.31; see also Republican Nat. Committee v. Fed. Elect. Commission, 487 F. Supp at 288 (noting that labor unions and corporations, which normally back major party candidates, are able to avoid many of the federal limits); Gifford v. Congress, 452 F. Supp. 802, 805 n.7 (1978) (describing creative ways to evade the federal limits).

Minor party candidates are in a decidedly different position. For one thing, the Government's interest in the finances of minor party candidates is significantly lessened. "The Government's interest in deterring the 'buying' of elections and the undue influence of large contributors on officeholders also may be reduced where contributions to a minor party or an independent candidate are concerned...." Buckley, 424 U.S. at 70. Moreover, without the ability to raise funds and to use those funds to attract voters, the small party candidate is effectively shut out of the process. See Id. at 34 (noting the force of the argument that "minor-party candidates are primarily concerned with their ability to amass the resources necessary to

reach the electorate."). The purposes of the federal regulations simply do not apply with the same force when an independent or minor party candidate is involved. The primary purpose of section 441a is to help avoid corruption, but this legislation provides an unfair advantage to the major party candidates, thereby subverting the intent of Congress. "[E]xercising an unfair advantage constitutes corruption of the system." Goland v. United States, 903 F.2d 1247, 1250 n.5 (9th Cir. 1990) (citing Austin v. Michigan Chamber of Commerce, 494 U.S. 652 (1990)).

B. The Constitutional Confines

Mr. Khachaturian's case presents the question left unresolved by the U.S. Supreme Court in the seminal case, Buckley v. Valeo, 424 U.S. 1 (1976).¹ In Buckley, the plaintiffs alleged, inter alia, that the federal limitation on campaign contributions to \$1,000 was unconstitutional on its face. The Court, in a per curiam opinion, found no facial unconstitutionality because the record did not show that any group as a whole was prejudiced by it. The Court, after noting that in the case of an independent candidate this limitation presented "troubling" issues, 424 U.S. at 33, went on to

¹"Buckley identified a single narrow exception to the rule that limits on political activity were contrary to the First Amendment." Citizens Against Rent Control v. City of Berkeley, 454 U.S. 290, 296-97 (1981); see Fed. Election Com'n v. Florida For Kennedy Committee, 681 F.2d 1286-87 (11th Cir. 1982) (quoting this language).

conclude, "To be sure, the limitations may have a significant effect on particular challengers or incumbents, but the record provides no basis for predicting that such adventitious factors will invariably and invidiously benefit incumbents as a class." Id. (emphasis added). Pursuant to this analysis, the Court declined to rule on the Act's impact on any one particular candidate. Id.²

In Buckley, the Supreme Court expressly left open the possibility that an independent or minor party candidate might be able to build a record that would render imposition of the federal limitations unconstitutional. In discussing the disclosure requirements, the Court stated: "There could well be a case... where the threat to the exercise of First Amendment rights is so serious and the state interest furthered by disclosure so insubstantial that the Act's requirements cannot be constitutionally applied." 424 U.S. at 71. The Court then went on to hold that the record in that case did not support such a

²The Supreme Court in Buckley also limited its holding in the following manner:

In this discussion, we address only the argument that the contribution limitations alone impermissibly discriminate against non-incumbents. We do not address the more serious argument that these limitations, in combination with the limitation on expenditures by individuals and groups, the limitation on a candidate's use of his personal and family resources, and the overall ceiling on campaign expenditures invidiously discriminate against major-party challengers and minor-party candidates.

424 U.S. at 31, n.33 (noting that the Court would elsewhere hold the limit on personal expenditures unconstitutional); see also California Medical Association v. Federal Election Commission, 453 U.S. 182, 197 n.17 (1981) (reserving other issues for a later case).

finding. Id. at 71-72. But, where an independent or minor party candidate can establish such a record, the constitutionality of these regulations is still open for attack.³

Prior to Mr. Khachaturian, only one third party candidate has had the opportunity to mount a challenge these federal limitations. In 1980, then Presidential candidate John Anderson recognized the problem that the federal contribution limitations placed on candidates like himself, and also recognized that this issue was still unresolved. See Anderson v. Federal Election Commission, 634 F.2d 3 (1st Cir. 1980). His motion for a preliminary injunction was dismissed, however, because he had failed to ask the FEC for an advisory opinion and had not developed a record upon which the court could base its decision. Id. at 5.

Since Buckley and Anderson, the Supreme Court has made it clear that minor party and independent candidates have first amendment rights that may exempt them from the confines of the federal limitations. See Brown v. Socialist Workers '74 Campaign Commn., 459 U.S. 87 (1982); see also Federal Election

³The Supreme Court has noted that the federal campaign limitations are particularly ripe for constitutional challenges. In attempting to determine why Congress provided for immediate certification to the Circuit Courts, the Court reviewed the legislative history and found the "sole explanation" in the House to have been set forth by Representative Frenzel, who stated, "I believe within this conference report there are at least 100 items questionable from a constitutional standpoint." California Medical Association v. Federal Election Commission, 453 U.S. 182, 188 n.7 (1981) (quoting 120 Cong. Rec. 35110 (1974)).

Campaign Comm., 678 F.2d 416 (2d Cir. 1982).⁴ This is so because the governmental interest in disclosure is lessened in the case of minor party candidates, and the threat posed to the first amendment is substantially greater. Buckley 424 U.S. at 68-71.⁵

C. Mr. Khachaturian's First Amendmant Rights Entitle him to an Exemption

Mr. Khachaturian's case, unlike Buckley, does not raise a facial challenge to the statute or argue its impact on any particular class or group. This case squarely presents a challenge to the statute as applied to Mr. Khachaturian, and is accompanied by a record supporting the conclusion that his political opposition will be "invariably and invidiously" benefitted by his inability to solicit donations in amounts larger than \$1,000. Buckley, 424 U.S. at 33.

Attached to the letter are 15 affidavits from potential donors to Mr. Khachaturian's campaign fund. See Appendices C -

⁴In Federal Election Commission v. Massachusetts Citizens for Life, 479 U.S. 238 (1986) the Court held that a state statute providing limits similar to those in the federal law could not be constitutionally applied to a small anti-abortion advocacy group).

⁵In the interest of full disclosure, it must be noted that the Goland court held that "Buckley approved the application of contribution limits to minor party candidates as well as to candidates who are likely to win." 903 F.2d at 1258. The Goland court reached this decision without a full discussion of the record or noting the difference between the Buckley attack on the facial validity of these regulations, and the issues that are raised in this case, relating to the regulations as applied on this record. These issues were clearly left unresolved in Buckley.

Q. Each of these donors has indicated a desire to contribute amounts in excess of the \$1,000 limit to Mr. Khachaturian's fund (for a total amount of at least \$175,000). They are prevented from doing so only by the federal limitation on contributions to political candidates. This limitation, combined with the cost of running a state-wide campaign, will effectively prevent Mr. Khachaturian from mounting a serious challenge for a seat on the U.S. Senate. See Appendix B. The federal contribution limitations are thereby serving to corrupt the process that they were intended to protect. As such, there is no legitimate governmental interest that is sufficient to overcome the infringement on the first amendment, and Mr. Khachaturian is entitled judgement on the merits.

If the election proceeds on schedule, and Mr. Khachaturian is unable to solicit donations in excess of the \$1,000 limit, he will be unable to take his message to the voters. See Buckley, 424 U.S. at 34 (noting the force of the argument that "minor-party candidates are primarily concerned with their ability to amass the resources necessary to reach the electorate."). In that case he will lose the election. Beyond that, he will not even be able to effectively take his message to the voters so as to have an impact on the election or to spread his message.

Granting an exception to Mr. Khachaturian will do no more than give the voters of Louisiana one additional alternative. It will not guarantee success for Mr. Khachaturian, nor will it have any impact beyond the narrow scope of this one race. Voter

unhappiness with the major parties at the national level was well documented this summer with the emergence of broad based support for H. Ross Perot. Unfortunately, with the current federal limitations, it requires a person of immense wealth to mount a third party challenge to the major parties. Mr. Khachaturian does not have that type of wealth, but he does have ideas that he wants to put before the public. Should the public be denied access to his ideas because he is unable to finance his campaign with his own money? The clear answer to that question indicates appropriate action that must be taken in this case.

Respectfully submitted,

Jon Khachaturian

by:

A handwritten signature in cursive script, appearing to read "Ronald J. Rychlak", is written over a horizontal line.

George C. Cochran
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