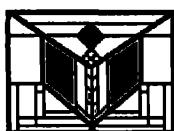


Comments on AOR 2011-12



Rosie Smith/FEC/US
06/02/2011 05:19 PM

To Robert Knop/FEC/US@FEC, Joanna Waldstreicher/FEC/US@FEC, Theodore Lutz/FEC/US@FEC, Yolanda CONTRACTOR
cc
bcc

Subject Fw: Comments on AOR 2011-12 (Majority PAC)

— Forwarded by Rosie Smith/FEC/US on 06/02/2011 05:18 PM —



Christopher Hughey/FEC/US
06/02/2011 05:16 PM

To "Rosie Smith" <rsmith@fec.gov>
cc
Subject Fw: Comments on AOR 2011-12 (Majority PAC)

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2011 JUN -2 PM 5:25

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----- Original Message -----

From: Daniel Weeks [dweeks@acrreform.org]
Sent: 06/02/2011 05:14 PM AST
To: Christopher Hughey
Cc: External Commission Secretary
Subject: Comments on AOR 2011-12 (Majority PAC)

Dear Mr. Hughey,

Please find comments on AOR 2011-12 from former Senators Bob Kerrey (D-NE) and Warren Rudman (R-NH), co-chairmen of Americans for Campaign Reform, attached.

Thank you,
Daniel



ACR_comments_on_Majority_PAC_AOR.pdf

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Daniel Weeks
President, Americans for Campaign Reform
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**AMERICANS FOR
CAMPAIGN REFORM**

Our future depends on it.

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June 1, 2011

Christopher Hughey, Esq.
Acting General Counsel
Federal Election Commission
999 E Street NW
Washington, DC 20463

CHAIRES
Smothers
Bill Bradley
Bob Kerrey
Warren Rudman
Alan Simpson

Re: Comments on AOR 2011-12 (Majority PAC)

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2011 JUN -2 PM 5: 25

OFFICE OF GENERAL
COUNSEL

Dear Mr. Hughey:

As former Senators, we are writing in response to AOR 2011-12, a request for an advisory opinion by Majority PAC and House Majority PAC, two "super PACs" which intend to raise funds that are not subject to federal contribution limits or source prohibitions, and that will be spent to influence the 2012 federal elections. The PACs request an opinion as to whether federal candidates and officeholders are permitted to solicit funds for the PACs that are not subject to federal contribution limits and source prohibitions.

We believe that such solicitations by federal candidates and officeholders are prohibited by the Bipartisan Campaign Reform Act of 2002 (BCRA). Specifically, section 441i(e)(1)(A) prohibits candidates and officeholders from soliciting funds "unless the funds are subject to the limitations, prohibitions, and reporting requirements" of the law.

The requesters here seek permission for federal officeholders and candidates to raise funds that are not subject to any limitations or prohibitions in the Act. In other words, they seek permission to do precisely what BCRA specifically prohibits. The Commission should respond by forcefully saying no to the request.

The Supreme Court in *McConnell v. FEC*, 540 U.S. 93 (2003), explicitly upheld the constitutionality of the solicitation restrictions on federal officeholders and candidates. The Court said that large donations solicited by a candidate or officeholder could "give rise to all of the same corruption concerns posed by contributions made directly to the candidate or officeholder." 540 U.S. at 182. Even if the candidate or officeholder does not control how the funds are spent, "the value of the donation to the candidate or officeholder is evident from the fact of the solicitation itself." *Id.*

Two of us gave testimony by affidavit in the *McConnell* case about the corrupting influence exerted by large donations made at the behest of federal candidates and officeholders. Although that testimony related specifically to soft money donations made to the national party committees, we firmly believe the same would be true of unlimited donations made to Super PACs in response to solicitations by federal candidates and officeholders, particularly where the money will be spent to influence federal elections, including possibly their own federal elections.

Senator Rudman testified, "I have deep experience with political fundraising, and I know first-hand and from working with colleagues just how beholden elected officials and their parties can become to those who contribute to their campaigns and to their party's coffers....Individuals on both sides of the table recognize that larger donations effectively 'purchase' greater benefits for donors....Large soft money contributions in fact distort the legislative process. They affect what gets done and how it gets done. They affect whom Senators and House members see, whom they spend their time with, what input they get, and – make no mistake about it – this money affects outcomes as well."

Senator Simpson testified, "I have seen firsthand how the current campaign financing system prostitutes ideas and ideals, demeans democracy, and debases debates." He further said, "Too often, Members' first thought is not what is right or what they believe, but how it will effect fundraising. Who, after all, can seriously contend that a \$100,000 donation does not alter the way one thinks about – and quite possibly votes on – an issue? Donations from the tobacco industry to Republicans scuttled tobacco legislation, just as contributions from the trial lawyers to Democrats stopped tort reform."

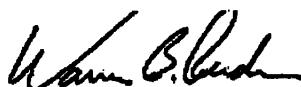
We reaffirm this testimony here, and believe it applies directly to the question before you. Congress for good reason adopted a law which prohibits federal candidates and officeholders from soliciting contributions of unlimited amounts. The Supreme Court, for good reason, affirmed the constitutionality of that law, correctly recognizing that unlimited contributions that are made at the behest of federal candidates and officeholders pose a serious threat of corruption. Nothing in any subsequent judicial decision undermines that holding of *McConnell*.

We urge the Commission to advise the requester that federal candidates and officeholders are prohibited from soliciting contributions that are not subject to the limits and prohibitions of the federal campaign finance laws.

Respectfully,



Sen. Bob Kerrey
Nebraska



Sen. Warren Rudman
New Hampshire