

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JAMES J. CAREY, *et al.*,

Plaintiffs,

v.

FEDERAL ELECTION COMMISSION,

Defendant.

Civ. No. 11- 259-RMC

STIPULATED ORDER AND
CONSENT JUDGMENT

STIPULATED ORDER AND CONSENT JUDGMENT

Plaintiffs Rear Adm. (Ret.) James J. Carey, Kelly Eustis, and National Defense PAC (“NDPAC”) (collectively, “Plaintiffs”) and Defendant Federal Election Commission (“Commission”) hereby stipulate that:

A. The parties enter into this Stipulated Order and Consent Judgment for the purpose of settling this litigation.

B. On January 31, 2011, Plaintiffs commenced this action by filing a Verified Complaint for Declaratory and Injunctive Relief against the Commission. Plaintiffs simultaneously filed a Motion for Preliminary Injunction, in which they asked the Court to preliminarily enjoin the Commission “from enforcing 2 U.S.C. §§ 441a(a)(1)(C) and 441a(a)(3) as applied to contributions to National Defense PAC and as applied to independent expenditures created by National Defense PAC.”

C. On June 14, 2011, this Court issued a Memorandum Opinion and an Order granting Plaintiffs’ motion for preliminary injunction.

D. The Commission hereby agrees that it shall not enforce 2 U.S.C. §§ 441a(a)(1)(C) and 441a(a)(3), as well as any implementing regulations, against Plaintiffs with regard to contributions NDPAC receives to make independent expenditures, as long as NDPAC maintains separate bank accounts (1) to receive such contributions for the purpose of making independent expenditures, and (2) to receive source- and amount-limited contributions for the purpose of making candidate contributions, and as long as each account pays a percentage of administrative expenses that closely corresponds to the percentage of activity for that account, and complies with the applicable limits for the source- and amount-limited contributions it receives for the purpose of making candidate contributions.

E. The parties agree to reserve resolution of Plaintiffs' demand for costs and fees until after this judgment has been entered.

Plaintiffs and the Commission agree that the Court should enter this Stipulated Order and Consent Judgment. All parties having agreed to entry of this Order and Judgment, it is HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. The contribution limits contained in 2 U.S.C. §§ 441a(a)(1)(C) and 441a(a)(3), as well as any implementing regulations, are unconstitutional as applied to contributions NDPAC receives to make independent expenditures.

2. The Commission shall not enforce 2 U.S.C. §§ 441a(a)(1)(C) and 441a(a)(3), as well as any implementing regulations, against Plaintiffs with regard to contributions NDPAC receives to make independent expenditures, as long as NDPAC maintains separate bank accounts (1) to receive such contributions for the purpose of making independent expenditures, and (2) to receive source- and amount-limited contributions for the purpose of making candidate

contributions, and as long as each account pays a percentage of its administrative expenses that closely corresponds to the percentage of activity for that account, and complies with the applicable limits for the source- and amount-limited contributions it receives for the purpose of making candidate contributions.

3. Any request for costs and fees must be filed no later than 30 days after the issuance of this order. Any response to such a request for costs and fees must be filed no later than 30 days after such a request is filed.

4. The Clerk of the Court is directed to enter this Judgment.

Respectfully submitted,

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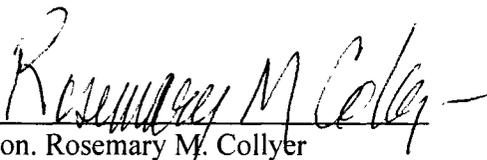
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*Admitted *Pro Hac Vice*

August 19, 2011

SO ORDERED.


Hon. Rosemary M. Collyer
United States District Judge

August 19, 2011