

The rise of the soft money system and campaign-related “issue advocacy” funded with soft money has, in short, undermined three longstanding “pillars of federal election law”: the banning of “corporate contributions out of concerns that concentrated wealth and the advantages of incorporation could distort and corrupt democratic government”; the banning of labor union contributions “to neutralize the political benefits that might result from their publicly-facilitated organizational strengths”; and the banning of “[l]arge and unlimited individual contributions . . . to prevent the buying of access to or special treatment by government officials.” Mann Expert Rep. at 31-32.

b. The national soft money ban reduces the potential for corruption in the political process.

There can be no question that circumvention of federal contribution limits and source prohibitions through unlimited soft money contributions to the political parties has resulted in the appearance of, and potential for, corruption in the political process. Soft money contributions to the political parties are potentially as corrupting as contributions made directly to candidates. As the Supreme Court has recognized, large contributions to the political parties can produce “obligated officeholders,” Colorado II, 533 U.S. at 452, just as large contributions made directly to candidates can, see Buckley, 424 U.S. at 26. The political parties “act as agents for spending on behalf of those who seek to produce obligated officeholders,” and donors “can use parties as conduits for contributions meant to place candidates under obligation.” Colorado II, 533 U.S. at 452. Indeed, contributing money to political parties “is a more effective way of seeking influence than merely giving to individual members of Congress,” because one large check to a party committee can provide more access to a larger number of officeholders than writing a greater number of small checks to individual candidates’ campaigns. Krasno & Sorauf Expert Rep. at 12. Accord

Randlett Decl. ¶ 13 [DEV 8-Tab 32]. The party committees “are headed by or enjoy close relationships with [the party’s] leading officials, individuals who by virtue of their positions, reputations, and control of the legislative party machinery have special influence on their colleagues.” Krasno & Sorauf Expert Rep. at 12-13. The “party’s involvement does not sterilize the system,” because “[e]lected officials know exactly who the big party contributors are.” Rudman Decl. ¶ 12 [DEV 8-Tab 34]. Accord Bumpers Decl. ¶ 20; Simpson Decl. ¶ 5 [DEV 9-Tab 38]; McCain Decl. ¶ 6 [DEV 8-Tab 29]; Greenwald Decl. ¶ 11 [DEV 6-Tab 16]; Randlett Decl. ¶ 10.

Large soft money donors to the party may benefit an officeholder or candidate in numerous direct and indirect ways. Such contributions raised by an officeholder or candidate, for instance, may translate into direct financial support from the party to that candidate or officeholder’s campaign. Members of Congress have testified that success in soft money fundraising helped ensure that the party contributed as much in permissible direct contributions, coordinated expenditures, and other support as might be needed in the Members’ campaigns. See Bumpers Decl. ¶¶ 10-11; Simon Decl. ¶¶ 9-10 [DEV 9-Tab 37]; see also Billings Decl. Ex. A ¶¶ 7, 10 [DEV 6-Tab 5]. Moreover, the Supreme Court has recognized that donors understand that their contributions to the party will directly benefit in such a fashion the candidates that they support. Colorado II, 533 U.S. at 458; see Wirth Decl. Ex. A ¶¶ 7-10 [DEV 9-Tab 43].

National political party committees also can and do provide significant assistance to the campaigns of federal candidates through the use of soft money. See Mann Expert Rep. at 20, 23, 26; see also Simpson Decl. ¶ 7 (“I always knew that both the national and state parties would find ways to assist my candidacy with soft money.”); Randlett Decl. ¶ 7 (soft money “used to help federal candidates win elections.”). One direct and significant benefit to a candidate raising soft

money would be through the candidate's adding to the universe of soft money that the party can use, in conjunction with state parties, to run so-called "issue ads" to assist the candidate's campaign.^{62/} Still another potential direct benefit to a candidate from soft money donations comes through the use of soft money to support voter registration, voter identification, and get-out-the-vote activities, which can have significant effects on the candidate's election prospects. See, e.g., Mann Expert Rep. at 25;

Even if a particular soft money contribution does not directly benefit a given candidate, he or she nonetheless has a substantial interest in promoting a strong ongoing relationship with the donor in light of the overlapping interests of the party and the candidate. _____

Parties exert considerable influence over federal candidates and officeholders, who, in turn, have a significant stake in the success of their parties. As Professor Green explains, parties frequently recruit, endorse, and finance candidates for public office, and "[f]ederal candidates in particular must pass through a sieve of party caucuses or primaries in order to appear on the general election ballot with the mantle of a political party beside their names." D. Green Expert Rep. at 7. Candidates "must typically build a cordial relationship with party leaders" to locate donors and activists who might help them with their campaigns, particularly "if candidates hope to secure direct campaign support from the parties or from prominent figures within the party," who are "apt fundraisers" and "important assets to any campaign organization." Id. at 9. The political parties also "control the resources crucial to subsequent electoral success and legislative

^{62/} See supra at 71-73; David B. Magleby, Report Concerning Interest Group Electioneering Advocacy and Party Soft Money Activity (Sep. 23, 2002) at 37-38 [DEV 4-Tab 8, hereinafter Magleby Expert Rep.]; Rudman Decl. ¶ 12. "Issue ads" not only assist a candidate's campaign by virtue of the electioneering message contained in the ads, they also force the candidate's opponent to spend time and resources to counter the ads. See Pennington Decl. ¶ 11; Beckett Decl. ¶¶ 10-11 [DEV 6-Tab 3]; Lamson Decl. ¶ 17.

power” once a candidate is elected to public office. Id. at 7. For example, the parties “organize the legislative caucuses that make committee assignments,” choose committee chairs, and elect legislative leadership. Id. at 7-8. Moreover, the success of the party in many respects accrues to the benefit of the officeholders who belong to that party. For example, the majority party enjoys “special procedural prerogatives and staffing resources” in the House and Senate committees and subcommittees. Id. Remaining in the party’s good graces is thus critical for a candidate or officeholder.

As the Supreme Court has recognized, a candidate has an incentive to raise funds for his party “to increase personal power and a claim to party leadership.” See Colorado II, 533 U.S. at 460 n.23. By engaging in fundraising activities, federal officeholders lengthen “the list of public and party officials who owe them favors.” D. Green Expert Rep. at 9. “The ubiquitous role that parties play in the lives of federal officials means that no official can ignore the fundraising ambitions of his or her party.” Id. at 15. This is reflected in the fundraising pressure that the national party committees impose on federal officeholders.

The DSCC

maintains a “tally” program that keeps track of hard money that a Democratic Senate candidate helps raise. Colorado II, 533 U.S. at 458;

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The frequent identity of interests between the parties and candidates and officeholders is reflected in the most prominent fundraising tactic employed by both parties, which is in itself potentially corrupting: the reliance on federal officials to raise soft money and the selling of access to federal officials as a reward for making large soft money donations to the party. As the Supreme Court has noted, under current law “substantial donations turn the parties into matchmakers whose special meetings and receptions give the donors the chance to get their points across to the candidates.” Colorado II, 533 U.S. at 461. The legislative record establishes that “[t]he Republican and Democratic national political parties that solicit and spend [soft] money use explicit offers of access to the most powerful, elected officials.” 147 Cong. Rec. S3138 (Mar. 29, 2001) (Sen. Levin); see also id. at S3248-49 (Apr. 2, 2001) (Sen. Levin); 145 Cong. Rec. S12744-45 (Oct. 18, 1999) (Sen. Levin).

The Thompson Committee Report, which was frequently cited in the legislative debate leading to BCRA’s enactment,^{64/} amply documents the practice of providing access to important officeholders in exchange for large contributions of soft money to political parties.^{65/} The Committee majority found that the DNC provided large party donors with “access to senior decision

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^{64/} See, e.g., 147 Cong. Rec. S3138 (Mar. 29, 2001) (Sen. Thompson); 147 Cong. Rec. S2530 (Mar. 19, 2001) (Sen. Lieberman); 147 Cong. Rec. S3138 (Mar. 29, 2001) (Sen. Levin).

^{65/} The Thompson Committee issued 427 subpoenas for documents or testimony, reviewed 1.5 million pages of documents, took 200 depositions, conducted over 200 witness interviews, held 32 days of hearings, and heard testimony from 72 witnesses. Thompson Comm. Rep. at 15.

makers” and various perks, including ““overnights’ at the White House,” and “Presidential coffees at the White House (even in the Oval Office).” Thompson Comm. Rep. at 41. The Committee minority agreed, observing that the practice of providing major contributors with “added access to decisionmakers in the legislative and executive branches of government” is “[o]ne of the most troubling aspects of the campaign finance system.” Id. at 4573; see also id. at 7968-78 (Minority Views).

The widely publicized “White House coffees” provided a prime example of how large soft money contributions to the Democratic Party translated into meetings with the President in the White House. Id. at 41. The Thompson Committee found that between January 1995 and August 1996, the White House hosted 103 coffees, of which the “vast majority” were attended by the President. Id. About 60 of the coffees were sponsored by the DNC, and 92 percent of the attendees of these coffees were “major Democratic Party contributors.” Id.^{66/}

The Thompson Committee also concluded that “a number of alarmingly unsavory characters gained access to the President in return for campaign contributions.” Id. at 41. These included, most famously, Roger Tamraz and Johnny Chung. Mr. Tamraz, an international businessman who was wanted by French police and subject to an Interpol arrest warrant for embezzlement in Lebanon, who seeking U.S. backing for an oil pipeline project in the Caucasus. Id. at 43. When officials at the National Security Council declined to support the project as harmful to U.S. interests, Tamraz contributed \$300,000 to various Democratic Party committees in order to get senior party officials to provide him with access to senior U.S. officials that he had previously been denied. Id. at 43,

^{66/} The Committee found that these guests made contributions totaling \$26.4 million during the 1996 election cycle, which represents “an average contribution of over \$54,000 per person, with one-third of their total donations, some \$7.7 million, given within a month of the donor’s attendance at a White House coffee. For example, the five persons attending a coffee on May 1, 1996, in the Oval Office itself each contributed \$100,000 to the DNC one week later.” Id.

2913-14. Mr. Tamraz candidly admitted that the “only reason” he made those donations was to secure access to the White House and promote his pipeline plan to the President. Id. at 2913. Tamraz’s contributions did in fact result in his obtaining access to senior officials, including six private meetings with President Clinton. Id. at 44. The Thompson Committee majority concluded that in addition to obtaining access, “Tamraz had actually persuaded President Clinton, [Presidential advisor Thomas F. “Mack”] McLarty, and [Associate Deputy Secretary for Energy Kyle] Simpson to begin looking for reasons to support Oil Capital’s [i.e., Tamraz’s] pipeline proposal.” Id. at 2925. Tamraz was disappointed that he ultimately did not achieve his objective, and suggested that he should have given more money to obtain the outcome he desired, stating “I think next time, I’ll give 600,000 [dollars].” Id. at 2930.

Mr. Chung made contributions to the DNC totaling \$366,000 during the 1995-96 election cycle and received access to the President and the First Lady event though he was regarded by the National Security Council as a “hustler” and told DNC officials that he would use access to the White House to entertain his foreign clients.^{67/} Id. at 783. The Committee noted that Mr. Chung bluntly acknowledged to the press that he received this access in exchange for his contributions to the DNC: “[t]he White House is like a subway: You have to put in coins to open the gates.” Id.

The record developed in this litigation likewise confirms that the parties continue to routinely and openly reward large soft money donors with access to federal officeholders and party leaders, not only through meetings, but also through informal opportunities to discuss issues with officeholders at fundraising events, such as dinners, retreats, golf tournaments, and other events.

^{67/} Throughout the legislative history, members of Congress expressed their concern that soft money had become a frequent conduit for access to elected officials not only for Americans, but also for foreign interests. See, e.g., 147 Cong. Rec. S2449 (Mar. 19, 2001) (Sen. Collins); 147 Cong. Rec. S3138 (Mar. 29, 2001) (Sen. Levin); _____

See, e.g.,

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Congress recognized that the acceptance of large donations by national parties and the practice of providing large party donors special access to high-ranking federal officials have a tremendous potential to corrupt the political system, either in the form of donors receiving special treatment by the Legislative or Executive Branches as a quid pro quo for past or future donations, see Buckley, 424 U.S. at 26, or “politicians too compliant with the wishes of large contributors,” see Shrink Missouri, 528 U.S. at 389. Senator Levin observed that in Buckley, the Supreme Court found an appearance of corruption “from the size of the contribution alone without even looking at the sale of access. . . . Selling access in exchange for contributions would only take the Court’s concerns and justification for limits a step further.” 148 Cong. Rec. S2115 (Mar. 20, 2002) (Sen. Levin); see also 147 Cong. Rec. S2530 (Mar. 19, 2001) (Sen. Lieberman); 148 Cong. Rec. H351 (Feb. 13, 2002) (Rep. George Miller); 147 Cong. Rec. S3107-10 (Mar. 29, 2001) (Sen. Feingold).

Respected political scientists endorse Congress’s conclusion that soft money donations to the national political parties have the potential to lead to the trading of legislative or policy favors or otherwise corrupt the political process. See Mann Expert Rep. at 28-29, 32-35; Krasno & Sorauf

Expert Rep. at 15; D. Green Expert Rep. at 25-26, 28. The risk of corruption extends beyond the risk that contributions will influence final roll-call votes on legislation; contributions can influence other, less public, aspects of the legislative and policymaking process that “may ultimately be more consequential than roll-call votes.” D. Green Expert Rep. at 21. In addition to their roll call votes, members of Congress can express support or opposition on issues by “offe[ring] amendments, mobiliz[ing] support, help[ing] place items on or off the agenda, speed[ing] or delay[ing] action, and provid[ing] special access to lobbyists.” Mann Expert Rep. at 33. Such activity need not occur on the chamber floor; it can take place at party leadership meetings and caucuses and in standing committees and subcommittees and conference committees. Id. Similarly, in the Executive Branch influence can be sought regarding appointments and access to decisionmakers. Id. at 34; see also La Raja Cross Tr. at 139-41 (legislative leaders and presidential nominees are able to raise the most money because of their ability to control policy).

Current and former Members of Congress likewise agree that large soft money donations, and the special access to legislators and policymakers that they provide, can corrupt, and have corrupted, the lawmaking process. Former Senator Paul Simon, for example, testified that “[i]t is not unusual for large contributors to seek legislative favors in exchange for their contributions.” Simon Decl. ¶ 13. He recounted an incident during the 1995-96 legislative session involving an amendment proposed by Federal Express, which had reportedly contributed almost \$1 million in soft money to the political parties in the preceding election cycle. Id. Senator Simon opposed the proposal in the Democratic Caucus, prompting one of his colleagues to respond that ““we’ve got to pay attention to who is buttering our bread.”” Colorado II, 533 U.S. at 451 n.12; Simon Decl. ¶ 14.

Senator Simon describes this incident as a “clear example of donors getting their way, not on the merits of the legislation, but just because they had been big contributors.” Id.

Former Senator Rudman similarly attests that large soft money donors receive special access to lawmakers, and that with this access these donors press elected officials “to introduce legislation, to amend legislation, to block legislation, and to vote on legislation in a certain way.” Rudman Decl. ¶ 7. Senator Rudman explained that while “[e]lected officials may not intend to be affected by such access,” they “receive a disproportionate amount of input and advice from larger, more wealthy contributors,” which can “skew their judgment.” Id. ¶ 8. Senator Simpson recalled “specific instances when Senators’ votes were affected by the fear of losing future donations,” and opined that “[d]onations from the tobacco industry to Republicans scuttled tobacco legislation, just as contributions from the trial lawyers to Democrats stopped tort reform.” Simpson Decl. ¶¶ 10-11. Senator McCain concurred: “I believe, based on my experience, that elected officials do act in particular ways in order to assist large soft money donors and that this skews and shapes the legislative process.” McCain Decl. ¶ 5. He cited several instances in which large soft money donors at least strongly appear to have influenced various stages of the legislative process. Id. ¶¶ 8-12; see also Wirth Decl. Ex. A ¶¶ 16-18.

Testimony from lobbyists, corporate representatives, major donors, and party insiders confirms that corporate donors frequently give soft money to parties to “influence the legislative process for their business purposes.” Hickmott Decl. ¶ 9 [DEV 6-Tab 19]; see also

— Kirsch Decl. ¶¶ 11, 14 [DEV 7-Tab 23]; Geshke Decl. ¶¶ 9-10 [DEV 6-Tab 14]; Hassenfeld Decl. ¶¶ 13, 15 [DEV 6-Tab 17]; Hiatt Decl. ¶¶ 11-12 [DEV 6-Tab 18]; Mariani, 80 F. Supp. 2d at 386, 395 (citing affidavit of lobbyist Daniel Murray ¶¶ 7, 12 [DEV 68-

Tab 33]).^{69/} In short, as Senator Rudman explained, “[l]arge soft money contributions in fact distort the legislative process,” and the current system is “inherently, endemically, and hopelessly corrupting.” Rudman Decl. ¶¶ 9-10.

c. The national soft money ban reduces the appearance of political corruption.

Whether or not soft money contributions have in fact resulted in political corruption, the legislative record and the record developed in this case demonstrate that the unregulated soft money system has created the appearance of corruption. See Buckley, 424 U.S. at 26-27. As the Supreme Court has made clear, avoiding the appearance of corruption is an important governmental interest; if the government leaves “the perception of impropriety unanswered,” the “cynical assumption that large donors call the tune could jeopardize the willingness of voters to take part in democratic governance. Democracy works ‘only if the people have faith in those who govern, and that faith is bound to be shattered when high officials and their appointees engage in activities which arouse suspicions of malfeasance and corruption.’” Shrink Missouri, 528 U.S. at 906 (citation omitted). Combating the public perception that the national political system has been corrupted by the influence of soft money donors was one of the principal reasons that Congress enacted BCRA. As Senator Feingold observed, “[t]he appearance of corruption is rampant in our system, and it touches virtually every issue that comes before us.” 147 Cong. Rec. S2446 (Mar. 19, 2001) (Sen. Feingold); see also id. at S3107 (Sen. Feingold). Other Members of Congress agreed. See, e.g. 148 Cong. Rec.

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S2107-09 (Mar. 20, 2002) (Sen. McCain); 147 Cong. Rec. S3248-49 (Apr. 2, 2001) (Sen. Levin) (referencing articles suggesting links between political contributions and such issues as bankruptcy legislation, ambassadorships, and pardons given by President Clinton); 148 Cong. Rec. S2107 (Mar. 20, 2002) (Sen. McCain); 147 Cong. Rec. S2952-53 (Mar. 27, 2001) (Sen. Kerry); 148 Cong. Rec. S2107-09 (Mar. 20, 2002) (Sen. McCain) (referencing Enron scandal); id. at H270 (Feb. 12, 2002) (Rep. Lucas) (same); id. at H272 (Feb. 12, 2002) (Rep. Moore) (same).

Moreover, Congress viewed the soft money ban as a means of reducing public cynicism about politics and increasing public participation in democratic governance. See, e.g., 148 Cong. Rec. H352-53 (Feb. 13, 2002) (Rep. Shays); 148 Cong. Rec. H272 (Feb. 12, 2002) (Rep. Moore); 148 Cong. Rec. H270 (Feb. 12, 2002) (Rep. Boyd); 147 Cong. Rec. H3986 (July 12, 2001) (Rep. Pelosi). Many members of Congress were quick to point to the steady downward trend in voter turnout in the United States over the last four decades, including the closely contested 2000 election, in which only 51 percent of eligible voters cast ballots. Id.; see also Krasno & Sorauf Expert Rep. at 41 (citing Walter Dean Burnham, The Current Crisis in American Politics (Oxford University Press 1983)).

The view that large soft money donations to the political parties carry the potential for corruption is shared widely beyond Capitol Hill. The political parties frequently accuse each other of giving political favors to the largest party donors. D. Green Expert Rep. at 26 n.34 (citing RNC and DNC press releases). The media regularly reports on new legislation by linking the effects that a new policy will have on soft money donors. See Krasno & Sorauf Expert Rep. at 18-21; see also Primo Rebuttal Expert Rep. ¶ 7; Robert Y. Shapiro, Rebuttal to the Expert Reports of Q. Whitfield Ayres and John C. Green (Oct. 7, 2002) at 8-9 [DEV 5-Tab 2, hereinafter Shapiro Rebuttal Expert

Rep.]. The editorial pages and television talk shows are similarly filled with commentary suggesting a connection between large soft money donations and the outcomes of government policy.^{70/} And most importantly, the public observes the conduct of candidates and federal officeholders and perceives that “policy decisions are bought and sold in Washington.” Mann Expert Rep. at 35.

This appearance of corruption has been confirmed through the use of carefully designed public opinion surveys. The evidence is overwhelming that people view large soft money contributions to political parties as contrary to the democratic ideal of honest policy-making. As Mark Mellman and Richard Wirthlin among the most respected Democratic and Republican pollsters in the country found in their recent telephone survey of 1,300 adult Americans, the American public believes that “[t]he views of large contributors to parties improperly influence policy and are given undue weight in determining policy outcomes.” Mark Mellman & Richard Wirthlin, Research Findings of a Telephone Study Among 1300 Adult Americans (Sep. 23, 2002) at 5 [DEV 2-Tab 5, hereinafter Mellman & Wirthlin Expert Rep.]. The vast majority of Americans (71%) think that Members of Congress sometimes decide how to vote on an issue based the preferences of large party contributors, even when that vote is at odds with the desires of the Member’s constituents, and even when the Member thinks that the vote is not in the best interests of the country. Id. at 7-8.^{71/} This poll conducted by Mellman & Wirthlin provides compelling evidence that the current soft money system creates the appearance of corruption.

^{70/} A sampling of those articles appears in the record at DEV 44 & 45. See also Meet the Press (1997), App. A to Defs.’ Mem., Tab 5, No. 2 (video).

^{71/} Perhaps more disturbingly, over two-thirds of the American public think that soft money donors to political parties sometimes block decisions by the federal government that could improve people’s everyday lives. Mellman & Wirthlin Expert Rep. at 9. Similarly, more than 8 in 10 Americans believe that party soft money donors get “special consideration,” compared to the nearly 7 in 10 Americans who believe that people like them are unlikely to receive similar “special consideration.” Id. at 9-10.

Moreover, the Mellman & Wirthlin poll is consistent with the findings of Columbia University Professor Robert Y. Shapiro a leading academic survey methodologist who reviewed all existing public opinion data touching upon campaign finance practices since 1990 (except for trend data which goes back to the 1940s). Based on his systematic analysis of the available data, Professor Shapiro concluded “unequivocally” that the current campaign finance system’s allowance of large soft money contributions by wealthy individuals, interest groups, corporations, and labor unions creates an appearance of corruption. Robert Y. Shapiro, Public Opinion & Campaign Finance (Sep. 18, 2002) at 2, 13-14 [DEV 2-Tab 6, hereinafter Shapiro Expert Rep.]. By banning soft money, BCRA addresses a significant contributing factor to the appearance of corruption.

d. The national party soft money ban reduces the appearance and reality of corruption that result from pressuring donors to make large campaign contributions.

In addition to the potential for officeholders to feel obligated to soft money donors, Congress was concerned about the unseemly pressure placed on donors by powerful federal officeholders and party officials soliciting large contributions. Not only are solicitations made personally by Members of Congress, see supra at 34-35, 71-74, the solicitations are numerous.^{72/} As Senator Feingold observed, “the fact that we in the Congress are doing the asking is what gives this system an air of extortion, as well as bribery.” 147 Cong. Rec. S2446 (Mar. 19, 2001) (Sen. Feingold). Senator Feingold cited an op-ed piece by Senator Zell Miller describing his telephone calls to potential donors: “[m]ost large contributors understand only two things: what you can do for them and what

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Rozen Decl. ¶¶ 6-7 [DEV 8-Tab 33] (once donor begins giving soft money, expectations are raised for “increasingly larger” donations).

you can do to them. I always left that room feeling like a cheap prostitute who'd had a busy day.”

Id. at S2445.^{73/}

Congress cited evidence that the business leaders who are asked to contribute soft money to the parties accede to requests for large donations because they believe that if they do not, they will lose access to federal officials and may face adverse legislative consequences. See 147 Cong. Rec. S2954-55 (Mar. 27, 2001) (Sen. Feingold) (discussing Committee for Economic Development (“CED”) survey of senior executives at large corporations); see also INT 001927-29 [DEV 32-Tab 69] (results of CED survey); INT 012983-85 [DEV 34-Tab 6] (same); 148 Cong. Rec. H273 (Feb. 12, 2002) (Rep. Turner).^{74/} Moreover, the record in this case confirms that business leaders and other insiders believe “they must participate in the soft money system in order to succeed.” Hassenfeld Decl. ¶ 23.^{75/}

^{73/} Congress recognized that eliminating national party soft money could reduce the “debilitating and demeaning and distasteful” aspects of a fundraising system, 147 Cong. Rec. S2717 (Mar. 22, 2001) (Sen. Leahy), which demoralize federal officeholders, distract them from their official duties, and discourage people from public service. See also 148 Cong. Rec. H351 (Feb. 13, 2002) (Rep. Shays); id. at H352-53; Thompson Comm. Rep. at 43.

^{74/} Just how party leaders can pressure corporate executives is illustrated by the fallout from a CED proposal recommending campaign finance reform. After the CED issued its proposal, Senator McConnell, as Chair of the National Republican Senatorial Committee, sent a letter to several CED members expressing his “concern” that CED made a “serious error” in identifying them as backers of the proposal, “which may cause some embarrassment to you if it is not immediately corrected.” Kolb Decl. ¶ 6 [DEV 7-Tab 24]. After CED sent a letter in response explaining its position on campaign finance, Senator McConnell sent a follow-up letter expressing his “great concern” that the business leaders would endorse the proposal and, in a handwritten personalized note, urged the executives to withdraw from CED. Several of the executives, “who work for companies that had significant issues pending before Congress at the time, considered the letters a thinly-veiled attempt to intimidate them with the implied message: Resign and keep quiet, or don’t count on doing business with Congress.” Kolb Decl. ¶ 8 [DEV 7-Tab 24]. See also Herrnsen Decl. at 38-39 (Jan. 28, 1999) [DEV 67-Tab 21, from RNC v. FEC, 98-CV-1207 (D.D.C.)] (“Following the Republican takeover of Congress, Majority Whip Tom Delay greeted lobbyists with a list that categorized the four hundred largest PACs as ‘Friendly’ or ‘Unfriendly,’ depending on the proportion of their contributions that went to Republicans in the 1994 elections, to hammer home the message that groups that wanted access to Republican leaders would be expected to give most of their PAC money to GOP candidates and party committees in the future (Maraniss and Weisskopf 1995).”); “The Top 400: An NRCC PAC Briefer” [DEV 77-Tab 146, from FEC v. Colo. Republican Federal Campaign Comm., No. 89-N-1189 (D. Colo.)].

^{75/} See Rozen Decl. ¶¶ 8, 10-11 (lobbyist: soft money is given in order to build relationships with Members of Congress and to obtain access to those Members through interaction at fundraising events or more formal, personal meetings; such access increases donor’s chances of succeeding with its legislative or policy agenda; donations given to both parties to help ensure access to Members in both parties); Bumpers Decl. ¶¶ 18, 20, 31-34 (former long-time Senator: soft money donors obtain access to Members of Congress; Members know who large donors are; “you cannot be a player in Washington unless you immerse yourself in the current [campaign finance] system”); Greenwald Decl. ¶¶ 8-12 (former Chairman and CEO of United Airlines: corporate donors solicited by Members of Congress feel pressure to accede to requests in order to avoid adverse consequences with respect to donor’s access to Members or donor’s legislative business and to avoid giving an advantage on these matters to competitors); Randlett Decl. ¶¶ 11-12 (business (continued...))

Randlett Decl. ¶ 6.

As Senator Feingold remarked, “[w]hen the business leaders and the CEOs of this country believe they are being shaken down and that they are being intimidated into giving these contributions, at a bare minimum, this is the appearance of corruption that the U.S. Supreme Court has identified as the basis for legislative action in this area.” 147 Cong. Rec. S2954-55 (Mar. 27, 2001) (Sen. Feingold).

3. The national party soft money ban is closely drawn to achieve its objectives.

The legislative record makes clear that the national party soft money ban is closely drawn to advance the exceedingly important governmental interests described above. Congress was plainly justified in concluding that the national party soft money ban is necessary because experience had shown that allowing the national political parties to solicit and accept soft money seriously compromised the integrity of federal elections and the political process. Over the years during

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leader: to enhance chances for business that its issues will be considered and favorably reviewed by Members of Congress, business should give “to both sides”; merely giving to one side is likely to be noticed by the other side);

⁷⁶ Even when solicitations are made by party officials rather than by federal officeholders, the solicitations can place tremendous pressure on prospective donors. Solicitations from party leaders are potentially coercive because party leaders are so closely connected to federal officeholders. See McCain Decl. ¶ 21. The Thompson Committee, for example, found that Clinton Administration Deputy White House Chief of Staff Harold Ickes “ran the DNC on a day-to-day basis,” that he reported its fundraising and expenditures to the President and the Vice President, and that the DNC’s national chairman, Don Fowler, was effectively subordinate to Ickes. Thompson Comm. Rep. at 34. The “party’s involvement does not sterilize the system,” because “[e]lected officials know exactly who the big party contributors are.” Rudman Decl. ¶ 12. Accord Bumpers Decl. ¶ 20; McCain Decl. ¶ 6; Simpson Decl. ¶ 5; Greenwald Decl. ¶ 11; Randlett Decl. ¶ 10.