

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

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MCCUTCHEON, <i>et al.</i> ,)	
)	
	Plaintiffs,)	
)	No. 12-cv-01034-JEB-JRB-RLW
	v.)	
)	THREE-JUDGE COURT
FEDERAL ELECTION COMMISSION,)	
)	
	Defendant.)	
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**MEMORANDUM OF CAMPAIGN LEGAL CENTER
AND DEMOCRACY 21 AS *AMICI CURIAE* IN OPPOSITION
TO PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

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SUMMARY OF ARGUMENT

In this case, plaintiffs McCutcheon and the Republican National Committee take aim at settled Supreme Court precedent, and request that this court disregard *Buckley v. Valeo*, 424 U.S. 1 (1976), in order to strike down the aggregate limits on contributions by individuals in connection to federal elections at 2 U.S.C. § 441a(a)(3).

In *Buckley*, the Supreme Court upheld the predecessor version of these aggregate limits based on the Court's recognition that aggregate limits are necessary to prevent donors from circumventing the limits on contributions to candidates "through the use of unearmarked contributions to political committees likely to contribute to that candidate, or huge contributions to the candidate's political party." 424 U.S. at 38.

Plaintiffs present no credible argument for why this holding in *Buckley* does not control this case. They allege that *Buckley* is inapplicable because the \$25,000 aggregate limit in the original Federal Election Campaign Act ("FECA") was subsequently amended by the Bipartisan Campaign Reform Act ("BCRA"), Pub. L. No. 107-155, § 307, 116 Stat. 81 (2002). *See* Memorandum in Support of Motion for Preliminary Injunction (June 22, 2012) at 8 ("Pls.' Br."). But the post-BCRA aggregate limits at issue here are identical in substance to the original \$25,000 aggregate limit, differing only in the dollar size of the limit and the time period covered. Equally unsuccessful is plaintiffs' attempt to distinguish *Buckley* by arguing that *Buckley* concerned a facial challenge: many of plaintiffs' claims here also request that the aggregate limits be declared facially unconstitutional or seek comparable relief.

In actuality, the crux of plaintiffs' case is that they want the *Buckley* holding reconsidered, an action that lies beyond the scope of this court's authority. Plaintiffs contend that the governmental interests that were found to justify the \$25,000 aggregate limit in

Buckley—namely, preventing corruption and the appearance of corruption, and preventing circumvention of the contribution limits—have been adequately addressed by subsequent amendments to FECA, rendering the aggregate limits superfluous. This argument, however, requires plaintiffs to adopt a stance of willful blindness to the likely consequences of invalidating the aggregate limits.

The elimination of the aggregate limits would eviscerate the longstanding limits on contributions by individuals to candidates, political parties and political committees under federal law. As outlined in Section I *infra*, absent the aggregate limits, a single donor could give a total of more than \$3.5 million in contributions in a single two-year election cycle to the three national party committees, fifty state party committees and 468 candidate committees connected to their preferred political party. Through the mechanism of joint fundraising, wealthy donors need not assume the burden of making hundreds of separate contributions, but rather can write a single multi-million dollar check to a joint fundraising committee created by their party. In short, any serious review of the probable effects of invalidating the aggregate limits demonstrates that those limits are vital to preventing corruption and the appearance of corruption.

In addition to turning a blind eye to the corruption that would likely ensue if the aggregate limits were invalidated, plaintiffs are simply wrong in claiming that the 1976 amendments to FECA following the *Buckley* decision resolved the circumvention concerns that the aggregate limit was devised to address. As discussed in Section II *infra*, plaintiffs claim incorrectly that the *Buckley* Court upheld the \$25,000 aggregate limit only because of its concern that a wealthy donor could otherwise channel a “massive” contribution through a political party committee or PAC to the candidate of his choice. Pls.’ Br. at 10–11. But the \$25,000 aggregate limit was not enacted to block a donor from funneling one massive contribution through a party

committee or PAC, but rather from using a massive number of such entities as pass-through conduits for multiple contributions. Plaintiffs fail to apprehend the specific type of circumvention that the aggregate limits were meant to address.

For all these reasons, plaintiffs have failed to demonstrate a likelihood of success on the merits of their claims, and this Court should deny their motion for a preliminary injunction.

ARGUMENT

I. Elimination of the Aggregate Contribution Limits Would Eviscerate the Individual Contribution Limits and Allow Donors to Make Massive Contributions to Benefit the Political Party and Candidates of Their Choice.

Plaintiffs contend that the aggregate contribution limits are unnecessary and therefore unconstitutional because adherence to FECA's other contribution limits eliminates any risk of corruption or the appearance of corruption. That assertion is demonstrably at odds with the foreseeable consequences of removing the aggregate limits. The invalidation of the aggregate limits would, as a practical matter, gut the federal contribution limits and upend FECA's defenses against quid pro quo corruption.

A. Absent the Aggregate Limits, a Single Donor Could Contribute Millions of Dollars to Federal Candidates and Party Committees.

Under current law, the limit for contributions by an individual to a federal candidate is \$2,500 per election (and thus, a total of \$5,000 to a single candidate for a primary and general election in a two-year election cycle). 2 U.S.C. § 441a(a)(1)(A); 11 C.F.R. § 110.1(b).¹ The limit for contributions by an individual to a national political party committee is \$30,800 per year. 2 U.S.C. § 441a(a)(1)(B); 11 C.F.R. § 110.1(c)(1). This \$30,800 annual limit applies separately to each of the three federal committees of a political party—the national party committee (e.g., the

¹ The dollar limits in the statute set by BCRA are indexed for inflation, 2 U.S.C. § 441a(c), and are thus now higher than the amounts that appear on the face of the statute. *See* FEC, *Contribution Limits for 2011-2012*, <http://www.fec.gov/pages/brochures/contriblimits.shtml> (last visited July 9, 2012).

RNC or DNC), that same party's Senate campaign committee, and that same party's House campaign committee. 11 C.F.R. § 110.1(c)(3). The limit on contributions by an individual to a state political party committee is \$10,000 per year, and this limit applies separately to each of the 50 state parties. 2 U.S.C. § 441a(a)(1)(D), 11 C.F.R. § 110.1(c)(5). Lastly, individuals may give up to \$5,000 to a multicandidate political committee (or "PAC") per year. 2 U.S.C. § 441a(a)(1)(C).

All of these contributions subject to the federal limits (i.e., "hard money") are also subject to the umbrella aggregate limits of 2 U.S.C. § 441a(a)(3). *See also* 11 C.F.R. §110.5. All contributions by an individual to federal candidates are capped at an aggregate of \$46,200 on a biennial basis ("\$46,200 aggregate limit"), 2 U.S.C. § 441a(a)(3)(A), and all contributions by an individual to non-candidate political committees (including party committees) are capped at \$70,800 biennially ("\$70,800 aggregate limit"), *id.* § 441a(a)(3)(B).

These aggregate limits are crucial to making the individual contribution limits effective. Without the \$46,200 aggregate limit, a single donor could contribute \$5,000 to every Republican or Democratic House and Senate candidate in an election cycle. In the aggregate, a wealthy individual could contribute \$2,340,000 to all the federal candidates of one party (given 468 federal elections per cycle, not including run-offs or presidential candidates).

Eliminating the \$70,800 aggregate limit would enable a single donor to give similarly massive contributions to party committees. By contributing \$30,800 to each of a party's three federal party committees each year, a single donor could give \$184,800 to just the federal party in a two-year election cycle. The same donor could give \$1 million dollars to that party's state committees by contributing \$10,000 a year (or \$20,000 in a two-year cycle) to each of that party's 50 state committees. By this means, a single wealthy donor could contribute \$1,184,800

to one party's committees in a single election cycle. Combined with the contributions that the same donor could make directly to that party's candidates, a single donor could provide \$3,524,800 in "limited" hard money contributions to a party and its federal candidates in a single election cycle.

And the number would be twice that amount for donors who like to hedge their political bets by seeking influence on both sides of the aisle, a common phenomenon recognized by the Supreme Court in *McConnell v. FEC*, 540 U.S. 93, 138 (2003) ("Particularly telling is the fact that . . . more than half of the top 50 soft-money donors gave substantial sums to *both* major national parties, leaving room for no other conclusion but that these donors were seeking influence, or avoiding retaliation, rather than promoting any particular ideology."). Any such donor could make contributions aggregating over \$7 million, were plaintiffs to succeed here.²

It is only the aggregate limit on hard money contributions that prevents such massive and plainly corrupting donations from flowing from those seeking to buy influence with federal candidates and party leaders. Eliminating the aggregate limit would quickly result in a system of multi-million dollar contributions to parties that would be indistinguishable from the system of "soft money," i.e., funds not subject to the federal contribution limits, that was shut down by the enactment of BCRA in 2002.

² Finally, the same individual could also contribute an indeterminate—but potentially vast—total amount to PACs aligned with their partisan or ideological interests. As of March 31, 2012, there were 1,987 nonconnected PACs registered with the FEC (not including independent-expenditure-only and hybrid PACs). See FEC, *Summary of PAC Activity Through March 31 of the Election Year*, http://fec.gov/press/summaries/2012/ElectionCycle/file/pac_financial_activity/Q1/PAC1q12012.pdf (last visited July 9, 2012). If roughly half of those committees generally support each party, an individual could give those PACs close to \$10 million in a two-year election cycle. Even assuming that only 10% of such committees are aligned with a given donor's views, that donor could still give nearly \$2 million.

B. The Use of Joint Fundraising Committees and Internal Party Transfers Would Enable Donors to Give Massive Contributions With a Minimum of Effort.

It is not at all far-fetched to foresee the return of multi-million dollar contributions in the absence of aggregate limits, because the law has mechanisms already in place that would facilitate a party's efforts to raise, organize, direct and spend such money. While it sounds cumbersome to expect a donor to write hundreds of separate checks, each under a separate hard money limit, that is not how it would work.

Instead, a party would set up a "joint fundraising committee," a common and frequently employed fundraising device that has its own section in the FEC rules. *See* 11 C.F.R. § 102.17. Simply put, a joint fundraising committee allows two or more political committees to combine their fundraising efforts and accept a single check from a donor that is then "split" between the participating committees and attributed to the contribution limit of each committee. "The participants in joint fundraising activities may include political party committees . . . candidate committees [and] multicandidate committees . . ." *Id.* § 102.17(a)(2). The joint committee provides notice to potential donors as to the identity of its participating committees and how the donations will be allocated. *Id.* § 102.17(c)(2). A donor may make a contribution to the joint fundraising committee equaling the "total amount that the contributor could contribute to all of the participants under the applicable limits . . ." *Id.* § 102.17(c)(5).

Using this mutually beneficial arrangement, parties and candidates can consolidate their fundraising efforts without running afoul of contribution limits. Most importantly, donors are relieved of the logistical challenge of making separate contributions to an array of different committees, and instead can simply write one check to the joint fundraising entity and receive immediate recognition for their largesse. Thus, by combining the allure of candidate access with

higher-limit party committees, joint fundraising enables and encourages donors to give large sums consisting of multiple hard money contributions.

In its simplest iteration, for example, a presidential candidate could form a joint fundraising committee with the candidate's national party and raise \$35,800 in a single check, of which \$5,000 would be dispersed to the candidate and \$30,800 would go to the national party committee. Variants of this model were used by both the Obama and McCain campaigns in the 2008 Presidential election. For example, then-presidential nominee Barack Obama and the DNC established a joint fundraising committee that could accept checks of over \$33,000.³ Then-presidential nominee John McCain was connected to a somewhat more complex joint fundraising effort involving the RNC, certain state Republican parties, and his campaign's compliance fund that accepted as much as \$70,000 per donor.⁴

Remove the aggregate limits, however, and the joint fundraising committee is in the business of receiving single checks of astronomical amounts from individual donors. The three national party committees could combine to receive checks of \$92,400 (with \$30,800 applied to the contribution limit of each committee). Nothing would prevent the party committees from adding multiple state parties to increase that aggregate amount by \$10,000 per state party participant. Indeed, nothing would prevent the 50 state parties from forming a joint fundraising

³ Instead of contributing to the Obama campaign and the DNC separately, donors wrote one generous checks of up to \$33,100—and pursuant to 2008 contribution limits, \$28,500 went to the DNC and two contributions of \$2,300 went to the Obama campaign (for the primary and general election). Michael Luo and Griff Palmer, *In Fine Print, a Proliferation of Large Donors*, N.Y. Times, Oct. 20, 2008, available at <http://www.nytimes.com/2008/10/21/us/politics/21donate.html>.

⁴ Matthew Mosk, *McCain Able to Skirt Limits of Federal Financing*, Wash. Post., Sept. 17, 2008, available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/09/16/AR2008091603321.html>. For more on the multiple joint fundraising committees established by both Presidential nominees in the 2008 election, see also Center for Responsive Politics, *Joint Fundraising Committees*, <http://www.opensecrets.org/pres08/jfc.php?cycle=2008> (last visited July 9, 2012).

committee that could receive checks for \$500,000 from each willing donor, with each check returned in \$10,000 increments to each of the participating state parties.

Once divided between the participating committees, however, the money can easily be routed back to a single party committee. Federal law allows for unrestricted transfers between, *inter alia*, national and state party committees of the same party; affiliated committees; and joint fundraising committee participants. *See* 2 U.S.C. § 441a(a)(4); 11 C.F.R. § 110.3(c). Thus, the joint fundraising committee for the 50 state parties could take a donor's \$500,000 check and "allocate" that money back to each of the participating state parties in order to attribute it to each state party's \$10,000 contribution limit. And the state parties could then each transfer the \$10,000 amount to their national party committee. Because nothing prevents these allocations and transfers from being done electronically and instantaneously, the donor's \$500,000 check made out to "State Joint Fundraising Committee" could quickly end up, as a practical matter, being deposited in the national party committee's bank account.

Thus, through joint fundraising and unlimited party-to-party transfers, an entity such as the DNC could aggregate the contributions up to a total of \$1,184,800 that are given to multiple party committees by one donor. Because the availability of joint fundraising streamlines this process so effectively, that \$1,184,800 contribution can be made with a single check, distributed electronically to all recipient party committees in accordance with applicable contribution limits, and then transferred back to the DNC's account in a matter of moments. Millions of dollars in separate contributions can thus be donated, disaggregated, transferred, re-aggregated and placed at the party's disposal almost immediately. Absent the aggregate limits, none of this would violate the law.

C. Invalidation of the Aggregate Limits Would Reinvigorate the Practice of Soft Money Solicitations by Federal Candidates and Officeholders, Thereby Recreating the Corruptive Practices That Necessitated the Enactment of BCRA.

Eliminating the aggregate limits would also cripple the prohibition on the solicitation of soft money by federal candidates and officeholders added by BCRA and upheld by the Supreme Court in *McConnell*. Absent the aggregate limits, candidates would be able to solicit donors for huge sums of money that in appearance and effect would be the equivalent of soft money donations, but would be treated as the aggregation of numerous “hard money” contributions—even if they collectively totaled millions of dollars.

BCRA amended FECA to provide that national party committees and federal officeholders and candidates “may not solicit, receive, or direct to another person a contribution, donation or transfer of funds or any other thing of value, or spend any funds, that are not subject to [FECA’s] limitations, prohibitions, and reporting requirements” 2 U.S.C. § 441i(a)(1), (e)(1).⁵ As the Court noted in *McConnell*, “Though the candidate may not ultimately 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.” 540 U.S. at 182–83.

These solicitation restrictions would be functionally nullified if the aggregate limits were to be invalidated. Because one donor would be able to give a joint fundraising committee a single check for a million dollars or more in funds that are subject to FECA’s hard money “limitations,” candidates would be able to solicit eye-popping sums while technically remaining in compliance with the solicitation restriction. Eliminating the aggregate limits would herald the

⁵ The restriction applies not only to candidates and parties, but also to their officers and agents, as well as to “any entity that is directly or indirectly established, financed, maintained, or controlled” by such committee or candidate. 2 U.S.C. § 441i(a)(2), (e)(2).

return to an era when enormous contributions to parties and candidates were freely solicited and often given by donors explicitly seeking favors from elected officials.

Finally, it is likely that candidates and parties would work together to ensure that candidates who solicit large amounts for their parties would also be the beneficiaries of the spending by their parties. In a very practical sense, the candidates would be soliciting massive contributions for their own benefit.

Thus, in a regime without aggregate limits, one can foresee a scenario in which a joint fundraising committee could be set up by a candidate, the three national committees and 50 state committees of a party. In the absence of aggregate limits, this joint fundraising committee will be able to raise very large aggregate donations—over \$1 million from a single donor. As significantly, a candidate or officeholder will be able to solicit donors for this amount, since such contributions will be within the contribution “limitations” under FECA and thus not subject to the solicitation restrictions. Once allocated to the participating party committees, the donations can then be transferred to a single party committee, either state or national, where the funds can be spent, through coordinated or independent expenditures, or a combination of both, on behalf of the candidate who participated in the joint fundraising effort and solicited the money.⁶

Using these mechanisms, none of which are unusual under existing law, a candidate would be able to solicit massive contributions for his own campaign, by simply directing the

⁶ National and state party committees can make both coordinated expenditures with their candidates and independent expenditures on behalf of their candidates. *See* 2 U.S.C. § 441a(d); 11 C.F.R. § 109.32. “Coordinated party expenditures” do not count against the party’s contribution limits, but are subject to a different and higher set of limits: \$21,684,200 for Presidential nominees; a range from \$91,200 to \$2,593,100 for Senate nominees; and \$45,600 or \$91,200 for House nominees (depending on how many representatives allocated to the state). 2 U.S.C. § 441a(d). FEC, *Coordinated Party Expenditure Limits 2012*, http://www.fec.gov/info/charts_441ad_2012.shtml (last visited July 9, 2012). Once the coordinated spending limit is reached, parties can make unlimited “independent” expenditures in support of a candidate.

money through a party joint fundraising committee with the understanding or expectation that the party committees would organize and spend the money for that candidate's benefit; indeed, to the extent the party would use the money for coordinated expenditures, the candidate himself would be effectively spending the money on his own behalf.

These scenarios are not fanciful. The history of campaign finance shows that when it comes to maximizing the raising and spending of campaign money, what can be done will be done. It is only the aggregate limit that now acts as the critical bulwark against such easy and open circumvention of the underlying contribution limits.

II. The Aggregate Limits Are Constitutional.

A. The *Buckley* Decision Controls This Case.

In challenging the aggregate limits, plaintiffs are in effect challenging *Buckley*, where the Supreme Court directly considered and rejected a facial challenge to the former \$25,000 limit on aggregate contributions by an individual in a calendar year. 424 U.S. at 38.

Although the Court did not make explicit the level of scrutiny it applied to the \$25,000 limit, it was clear from the structure of the decision that the Court did not apply strict scrutiny to the contribution limits that it reviewed in that case—the \$1,000 individual limit, the \$5,000 multicandidate PAC limit, and the \$25,000 aggregate limit. The Court began its review with a thorough analysis of the different burdens on speech posed by contributions limits and expenditure limits, concluding that contribution limits “entail[] only a marginal restriction upon the contributor’s ability to engage in free communication,” and therefore would be sustained “if the State demonstrates a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgment of associational freedoms.” *Id.* at 20, 25. Following this preface, the Court reviewed the three challenged contribution limits consecutively, *see id.* at 23–39,

clearly applying the same “closely drawn” level of scrutiny to all three. Plaintiffs’ request here for strict scrutiny review of the aggregate limits therefore has no basis. *See* Pls.’ Br. at 5–6, 34.⁷

Applying closely drawn scrutiny, the *Buckley* Court found that the \$25,000 aggregate limit was justified by the governmental interest in preventing circumvention of FECA’s other contribution limits, specifically of the \$1,000 limit on individual contributions to candidates.

The Court explained:

But this quite modest restraint [i.e., the \$25,000 aggregate limit] upon protected political activity serves to prevent evasion of the \$1,000 contribution limitation by a person who might otherwise contribute massive amounts of money to a particular candidate through the use of unarmarked contributions to political committees likely to contribute to that candidate, or huge contributions to the candidate’s political party. The limited, additional restriction on associational freedom imposed by the overall ceiling is thus no more than a corollary of the basic individual contribution limitation that we have found to be constitutionally valid.

424 U.S. at 38.

Although the aggregate limits at issue here are simply an updated version of the \$25,000 aggregate limit upheld in *Buckley*, plaintiffs nevertheless dispute that *Buckley* is controlling here.

First, plaintiffs contend that *Buckley* does not apply because the \$25,000 aggregate limit was amended by BCRA in 2002. But BCRA did not change the aggregate limit in any material respect; rather, it merely raised the aggregate ceiling to \$37,500 for contributions to candidate committees and to \$57,500 for contributions to non-candidate committees (both indexed for inflation), and changed the operative time period from one to two years. BCRA § 307(b), 116 Stat. 102–03. Because the Court’s decision to uphold the original \$25,000 aggregate limit did not turn on the limit’s dollar amount or temporal scope, any revisions to these aspects of the limit

⁷ Underscoring the weakness of their claim for strict scrutiny, plaintiffs must resort to asking this Court to reconsider Supreme Court precedent establishing a less rigorous standard of review for contributions. Pls.’ Br. at 5–6 (stating that “to the extent that *Buckley* is interpreted as imposing lowered scrutiny on contribution limits than on expenditure limits, [plaintiffs] expressly call for the reconsideration of *Buckley*”).

do not affect the applicability of *Buckley* to the post-BCRA aggregate limits. Indeed, pursuant to plaintiffs' reasoning, *Buckley* also would not govern the review of the limit on contributions by individuals to candidates, because BCRA raised this limit from \$1,000 to \$2,000. *Id.* § 307(a)(1). This is simply not a credible argument.

Plaintiffs also mention that they bring an as-applied challenge to the aggregate limits whereas *Buckley* reviewed the facial constitutionality of the \$25,000 aggregate limit. But plaintiffs also bring a facial challenge to the aggregate limits, and seek comparable relief. Pursuant to their own reasoning, plaintiffs would have to concede that their facial challenge is directly foreclosed by *Buckley*. *See* Compl., Counts II, III, V. Further, for the reasons discussed below, plaintiffs fail to demonstrate that contributions to any particular type of political committee, e.g., the national party committees, pose a lesser potential for corruption and therefore should be exempted from the aggregate limit on an as-applied basis.

Finally, plaintiffs attempt to escape *Buckley* by arguing that Congress "materially altered" the "statutory context" of the \$25,000 aggregate limit following *Buckley*, and that these alterations sufficiently resolved the circumvention problems so that the aggregate limit is no longer necessary. Pls.' Br. at 8. For the reasons discussed below, these statutory alterations did not resolve the corruption and circumvention concerns that the \$25,000 aggregate limit was enacted to address. In short, plaintiffs effectively ask this court to disregard settled Supreme Court precedent, but provide no valid reason for such a departure.

B. The Governmental Interests That Were Found in *Buckley* to Support the Constitutionality of the Original \$25,000 Aggregate Limit Also Support the Post-BCRA Aggregate Limits.

Buckley controls this case. But even if *Buckley* was found not to do so, the governmental interests identified in *Buckley* that justify the \$25,000 aggregate limit likewise justify the latest iteration of that limit—the aggregate limits at issue here.

1. The Aggregate Limits Directly Serve the Governmental Interest in Preventing Quid Pro Quo Corruption and the Appearance of Corruption.

Plaintiffs challenge the \$70,800 aggregate limit on its face and as applied to national party committees, and the \$46,200 aggregate limit on its face. Both limits, however, directly advance the governmental interest in preventing actual and apparent quid pro quo corruption and should be upheld on this basis.

a. The \$70,800 Aggregate Limit on Contributions to Party Committees and PACs

Invalidation of the \$70,800 aggregate limit would allow a single individual to donate over a million dollars to a political party's national and state party committees in a two-year election cycle. Indeed, through the mechanism of joint fundraising, a wealthy donor could cut a single \$1 million check to a joint fundraising committee created by her preferred party and that money could be spent to benefit the officeholder who solicited the contribution. And this calculation does not even take into account the almost limitless number of PACs potentially aligned with the donor's party to which the donor could also direct contributions. Plaintiffs' assertion that an individual's donation of millions of dollars for the benefit of one political party does not raise the potential for quid pro quo corruption simply does not pass the laugh test.

Although *Buckley*'s discussion of the \$25,000 aggregate limit focused primarily on how the limit served the anti-circumvention interest in protecting other contribution limits enacted to

prevent corruption, later cases made clear that the aggregate limits also directly furthered the government's anticorruption interest. In *California Medical Ass'n v. FEC (CalMed)*, 453 U.S. 182 (1981), the Supreme Court explained that *Buckley* had upheld the limits on contributions from individuals and PACs to candidates and the \$25,000 aggregate limit because "such limitations served the important governmental interests in preventing the corruption or appearance of corruption of the political process that might result if such contributions were not restrained." *Id.* at 195 & n.15 (emphasis added).

Plaintiffs also advance a more targeted attack on the \$70,800 aggregate limit, challenging it as applied to only the national party committees. Even this fallback position, however, would allow a single individual to donate, and an officeholder to solicit, enormous sums of money to support his preferred political party or candidate, raising the specter of actual and apparent corruption. As discussed in Section I, absent the aggregate limits, an individual could contribute a total of \$184,800 to the three national committees of a major political party in a two-year election cycle. *See* Section I.A. *supra*. Furthermore, in addition to this \$184,800, plaintiffs propose that a donor also be permitted to meet his \$46,200 sub-limit for contributions to state party committees and PACs, bringing the grand total of potential contributions to party committees to over \$225,000. *See* Pls.' Br. at 29.

Furthermore, FECA permits these contributions to be transferred between the national party committees and between the national and state committees without restriction, and thus these contributions could be aggregated in the account of one recipient committee. Plaintiffs' allegations that these national committees have different "agendas" and "focuses" thus lack any import, Pls.' Br. at 18–19, because the transfer provisions of FECA ensure that the formal independence of the committees has no functional meaning. And where the contribution is

solicited by an officeholder from a donor supporting that officeholder, the money can easily end up in one party committee to be spent to support that officeholder.

The corruptive potential of a \$225,000 sum is self-evident. The only reason offered by plaintiffs as to why this would not be the case is their sweeping claim that “the anticorruption interest does not apply to contributions to national party committees.” Pls.’ Br. at 13. This claim is demonstrably false, and has already been rejected by the Supreme Court.

Plaintiffs ignore the *McConnell* decision. There, the Supreme Court upheld the limits on contributions to national and state party committees, as well as restrictions on the solicitation of soft money contributions by candidates, officeholders and party officials, because those limits and restrictions advanced the government’s interest in preventing corruption and the appearance of corruption. The *McConnell* Court recognized that contributions to a candidate’s party could create a sense of obligation no less than a direct contribution to the candidate himself, 540 U.S. at 144–45, and noted that “[t]his is particularly true of contributions to national parties, with which federal candidates and officeholders enjoy a special relationship and unity of interest.” *Id.* at 145. Because of this “close affiliation,” the national parties are placed “in a unique position, ‘whether they like it or not,’ to serve ‘as agents for spending on behalf of those who seek to produce obligated officeholders.’” *Id.* (quoting *FEC v. Colorado Republican Federal Campaign Committee (Colorado II)*, 533 U.S. 431, 452 (2001)). After surveying the voluminous record compiled by Congress in support of the soft money limits, the *McConnell* Court concluded that that “there is substantial evidence to support Congress’ determination that large soft-money contributions to national political parties give rise to corruption and the appearance of corruption.” *Id.* at 154 (emphasis added).

Further, the Supreme Court in no way altered this holding in *Citizens United v. FEC*, 130

S. Ct. 876 (2010), as plaintiffs suggest. Pls.’ Br. at 13. To the contrary, the Supreme Court recently reaffirmed this *McConnell* holding when, after *Citizens United*, it summarily affirmed a three-judge district court decision that sustained BCRA’s restrictions on party soft money. *RNC v. FEC*, 698 F. Supp. 2d 150 (D.D.C.), *aff’d*, 130 S. Ct. 3544 (2010) (mem.).

McConnell thus makes clear that large contributions to the national party committees are potentially corruptive. Despite this unequivocal holding, plaintiffs propose to allow individuals to contribute six times this amount in a two-year election cycle, and they offer no justification beyond the unsupported—and unsupportable—statement that “the anticorruption interest does not apply to contributions to national party committees.”⁸ This proposition squarely contradicts the holding of *McConnell*, and to adopt this position would effectively require this court to overrule Supreme Court precedent.

b. The \$46,200 Aggregate Limit on Contributions to Candidate Committees

Although plaintiffs concede that “an anti-corruption interest may justify contribution limits,” they argue that this interest is not relevant to the \$46,200 aggregate limit “because the biennial limit does not apply to any contribution to a particular candidate . . . and McCutcheon’s contributions will be within the base contribution limits.” Pls.’ Br. at 35.

⁸ The only legal support proffered by plaintiffs in support of this statement are out-of-context quotes and concurrences from *Colorado Republican Federal Campaign Committee v. FEC*, 518 U.S. 604 (1996) (“*Colorado I*”). See Pls.’ Br. at 13–14 (citing *Colorado I*, 518 U.S. at 616 (“We are not aware of any special dangers of corruption associated with political parties”) (Breyer, J., joined by O’Connor & Souter, JJ.); and *id.* at 646 (“As applied in the specific context of campaign funding by political parties, the anti-corruption rationale loses its force”) (Thomas, J., joined by Rehnquist, C.J., and Scalia, J., concurring in judgment and dissenting)). But *Colorado I* addressed the question of whether a party’s independent expenditures can be limited, not whether contributions in excess of the federal limits to parties give rise to corruption concerns. It is thus inapplicable here.

Plaintiffs are deliberately missing the point. To be sure, donors are bound by the \$2,500 “base limit” as to their contributions to particular candidates, but plaintiffs disregard the collective impact that up to 468 of such “limited” contributions from a single donor will potentially have on the political system. Elimination of the \$46,200 aggregate limit would allow a single donor to make over \$2 million in contributions to the candidates of her favored party. *See* Section I *supra*. As was the case with soft money contributions to parties, “[i]t is not only plausible, but likely, that candidates would feel grateful for such donations and that donors would seek to exploit that gratitude.” *McConnell*, 540 U.S. at 145.

Plaintiffs also fail to apprehend that the law allows candidates to transfer funds to party committees without restriction. This freedom means that multiple contributions made by a single donor can be aggregated for the benefit of a “particular candidate” by transfer of the funds to a party committee. *See also* Section II.B.2 *infra*. Thus, while it is technically true that “the biennial limit does not apply to any contribution to a particular candidate,” as plaintiffs state, the \$46,200 aggregate limit does apply to prevent multiple contributions from a single donor from being aggregated for a “particular candidate.”

Finally, plaintiffs fail to acknowledge the substantial threat of corruption posed by a candidate’s solicitation of numerous “limited” contributions from a single donor. Just as solicitations by candidates for huge soft money contributions was found by the *McConnell* Court to pose a danger of corruption or the appearance of corruption, so too would candidates’ solicitation of donors for possibly millions of dollars of hard money contributions give rise to corruption and the appearance of corruption. As articulated in *McConnell*: “Large soft-money donations at a candidate’s or officeholder’s behest give rise to all of the same corruption

concerns posed by contributions made directly to the candidate or officeholder.” 540 U.S. at 182.

2. The Aggregate Limits Block Circumvention of the Individual Contribution Limit and Other FECA Contribution Limits.

As argued above, the aggregate limits directly prevent corruption and the appearance of corruption by ensuring that a donor cannot gain undue influence over candidates and officeholders by making an enormous aggregate amount of “hard money” contributions. However, as explained by *Buckley*, the aggregate limits also advance the government’s related interest in preventing circumvention of the individual contribution limits by persons who seek to funnel money to benefit their favored candidate by making “unearmarked contributions to political committees likely to contribute to that candidate, or huge contributions to the candidate's political party.” 424 U.S. at 38.

a. The \$70,800 Aggregate Limit on Contributions to Party Committees and PACs

Plaintiffs do not contest that *Buckley* explicitly sustained the aggregate \$25,000 limit on grounds that it deterred evasion of the individual contribution limits. Pls.’ Br. at 8–10. They maintain, however, that the Court was motivated not by a broad concern about potential circumvention, but rather by much narrower fears of so-called “political committee proliferation” and “massive contributions.” Pls.’ Br. at 17–22. Because, according to plaintiffs, these narrower fears were addressed by the amendments to FECA following *Buckley*, the \$70,800 aggregate limit is no longer necessary to maintain the integrity of the contribution limits, and consequently represents a “prophylaxis on prophylaxis” approach to circumvention forbidden under the First Amendment. Pls.’ Br. at 14–15.

This argument fails on multiple levels. First, plaintiffs' suggestion that the *Buckley* Court was motivated only by fears of "political committee proliferation" and "massive contributions" is pure invention. Second, the post-*Buckley* amendments that plaintiffs highlight did not in fact "solve" the circumvention concerns raised by the *Buckley* Court. Finally, plaintiffs have no support for their fundamental theory that the mere existence of one law to prevent circumvention necessarily renders other anti-circumvention measures unconstitutional.

First, with respect to *Buckley*'s expressed concern about circumvention schemes involving "unearmarked contributions to political committees likely to contribute to [a favored] candidate," plaintiffs claim that the Supreme Court was really only "specifically concerned" about donors giving to a "proliferation of political committees," which plaintiffs define as multiple committees controlled by a single individual or entity. Pls.' Br. at 17–18. Plaintiffs conclude their argument by claiming that the 1976 Amendments to FECA and the affiliation rules adopted by the FEC fully addressed this issue, and therefore rendered the \$70,800 aggregate limit redundant. FECA Amendments of 1976, Pub. L. No. 94-283, 90 Stat. 475 (1976); 11 C.F.R. §§ 105(g), 110.3(b).

The problem with this argument is that the Court did not mention "political-committee proliferation" in its analysis of the \$25,000 aggregate limit. *See Buckley*, 424 U.S. at 38. It certainly did not suggest that affiliated political committees under common control represented the only avenue for circumvention. Plaintiffs' fixation on this issue is inexplicable. The Court's decision to uphold the \$25,000 aggregate limit was instead animated by the far broader concern that that donors seeking to give contributions in excess of the federal limits to their favored candidate would simply channel "unearmarked contributions to political committees likely to contribute to that candidate" in order to multiply their giving to such candidate. Indeed, the

inapplicability of “political-committee proliferation” to the analysis of the \$25,000 aggregate limit is underscored by the fact that the only textual support plaintiffs offer is imported from an entirely different section of *Buckley* that concerns the \$1,000 individual contribution limitation. Pls.’ Br. at 17–18 (citing *Buckley*, 424 U.S. at 28 n.31). In short, the *Buckley* Court in no way premised its approval of the \$25,000 aggregate limit solely on the issue of “political-committee proliferation.” That FECA was subsequently amended to address affiliated committees is therefore irrelevant to the continued need for an aggregate limit as a bulwark against circumvention.

Second, plaintiffs contend that the *Buckley* Court was concerned only with circumvention involving “massive contributions” in upholding the \$25,000 aggregate limit, an amount which plaintiffs unilaterally declare means something like “\$30,800,000.” Pls.’ Br. at 20.⁹ Plaintiffs

⁹ Plaintiffs also argue that the aggregate limits are simply “too low” pursuant to *Randall v. Sorrell*, 548 U.S. 230 (2006), because they fail to meet, with mathematical precision, the contribution-limit-to-population ratio considered there. *See* Compl., Counts III, V.

As a threshold matter, *Randall* did not consider aggregate limits, only “base limits” on individual and other contributions to candidates and thus is inapplicable to this case. Even if *Randall* is relevant, however, plaintiffs’ argument is wholly unsuccessful.

First, plaintiffs base their argument on a mathematical equation that has no basis in law. In so arguing, plaintiffs ignore the principle articulated in *Buckley* that “a court has no scalpel to probe” or fine-tune complex legislative enactments. 424 U.S. at 30. Once “satisfied that some limit on contributions is necessary,” courts must subordinate their policy judgments for those of the legislature. *Id.* The Supreme Court in *Randall* echoed this view of relative institutional competence:

We cannot determine with any degree of exactitude the precise restriction necessary to carry out the statute’s legitimate objectives. In practice, the legislature is better equipped to make such empirical judgments, as legislators have ‘particular expertise’ in matters related to the costs and nature of running for office.

548 U.S. at 248 (citing *McConnell*, 540 U.S. at 137). By suggesting that the constitutionality of a contribution limit can be discerned through mathematical calculations, as opposed to legislative expertise in the financing of elections, plaintiffs attempt to reduce constitutional analysis to simple arithmetic. Pls.’ Br. at 36.

Further, their assertion that the biennial limits are too low rests on an incomplete review of *Randall*. There, the Court identified numerous factors suggesting that Vermont’s contribution limits were

then assert that the Court’s concern with such “massive” circumvention was alleviated by the enactment of additional contribution limits after the *Buckley* decision and that consequently the \$70,800 aggregate limit is now superfluous. Pls.’ Br. at 10–11.

Plaintiffs’ argument fails because it relies on an incomplete description of the statutory background of the *Buckley* decision. Plaintiffs highlight that at the time of *Buckley*, FECA imposed no limits on contributions to political party committees or to PACs, which would have allowed a donor to make unlimited contributions to these committees but for the \$25,000 aggregate limit. Pls.’ Br. at 19–20. They suggest that *Buckley*’s concern with “massive” circumvention stemmed from this freedom to make unlimited contributions to parties and PACs, insinuating that at the time of *Buckley*, donors could have funneled unlimited funds through these entities to the candidates of their choice absent the aggregate limit. The 1976 Amendments to FECA, plaintiffs argue, added new contribution limits, including a \$20,000 per year limit on

not closely drawn. Among these “danger signs,” the Court emphasized the fact that Vermont’s \$200-per-cycle limit—the lowest in the nation—applied “both to contributions from individuals and to contributions from political parties.” *Id.* at 249. Vermont’s contribution ceilings also applied to coordinated party expenditures and to “virtually all the affiliates of a political party,” and were not indexed for inflation—further distinguishing them from FECA’s comparatively moderate limits. *Id.* at 257. In fact, the contribution limits struck down in *Randall* were more restrictive than the federal limits in almost every respect.

The Vermont statute’s strict cap on contributions from parties to candidates, and its failure to treat parties and individuals differently, was an explicit basis for its invalidation. *See id.* at 254 (“We reach this conclusion based not merely on the low dollar amounts of the limits themselves, but also on the statute’s effect on political parties.”). By contrast, when discussing the federal limits on party contributions to candidates upheld in *FEC v. Colorado Republican Federal Campaign Committee (Colorado II)*, 533 U.S. 431 (2001), the Court noted approvingly:

[The limits] were much higher than the federal limits on contributions from individuals to candidates, thereby reflecting an effort by Congress to balance (1) the need to allow individuals to participate in the political process by contributing to political parties that help elect candidates with (2) the need to prevent the use of political parties “to circumvent contribution limits that apply to individuals.”

Randall, 548 U.S. at 258–59 (quoting *Colorado II*, 533 U.S. at 453). As discussed in Section II.B. *supra*, the federal aggregate contribution limits perform a vital anti-circumvention function. Far from being contrary to *Randall*, they instead are necessary to achieve the very “balance” endorsed in *Randall* between promoting political participation and preventing corruption.

contributions to a national party committee, and a \$5,000 per year limit on contributions to multicandidate PACs. FECA Amendments of 1976, § 320(a)(1)(B). These amendments, according to Plaintiff, shut down the possibility of channeling a “massive contribution” through a party committee or PAC. Pls.’ Br. at 19–20.

The omission in this narrative, however, is that at the time of *Buckley*, both party committees and multicandidate committees were limited in how much they could contribute to candidates: both were subject to a \$5,000 limit on direct contributions to a candidate, although the parties were permitted to make limited coordinated expenditures in connection to a candidate as well. *See* FECA Amendments of 1974, Pub. L. 93–443, §§ 101(b)(2), 101(f), 88 Stat. 1263 (1974); *see also Buckley*, 424 U.S. at 13 n.12, 35–36. In short, although parties and PACs were not barred by any law save the \$25,000 aggregate limit from accepting unlimited contributions, they were barred from making unlimited contributions. Thus, even without the \$25,000 aggregate limit, the “statutory context” at the time of *Buckley* would not have permitted donors to route “massive” contributions through parties and PACs to a particular candidate.

The \$25,000 aggregate limit therefore was not enacted to block a single “massive contribution” from being funneled through a political party or PAC as plaintiffs suggest. Instead the aggregate limit addressed the concern that a wealthy donor would contribute to a large number of party committees and/or PACs and then those entities would each make a limited contribution to the donor’s preferred candidates. The donor would thus evade the individual contribution limits not by making one massive contribution to a party committee or PAC, but rather by using a massive number of such entities as pass-through conduits for his contributions. This form of circumvention can only be addressed by an aggregate contribution cap. Thus, contrary to plaintiffs’ suggestion, the 1976 Amendments in no way obviated the need for an

aggregate limit and thus do not call into question the constitutionality of the \$70,200 aggregate limit.

Furthermore, plaintiffs' repeated emphasis on the word "massive" reveals their failure to understand the basic mechanism of circumvention. The government's interest in blocking circumvention of the individual contribution limits is not only triggered by sums of, for example, \$30,800,000, being routed through parties and PACs to candidates. Pls.' Br. at 14–15 ("Since *Buckley* held that only 'large contributions' triggered a quid-pro-quo-corruption risk . . . there is no conduit concern justifying biennial contribution limits unless it is possible to 'contribute massive amounts of money to a particular candidate'" (emphasis in original)). Instead, the problem of circumvention arises whenever a political entity can serve as a conduit for donors seeking to route contributions in excess of the individual contribution limits to a candidate. The amount of money passed through a conduit does not have to be "massive" in order to be cognizable circumvention, as multiple Supreme Court decisions have noted. In *CalMed*, for instance, the Court was concerned about the use of PACs for circumvention, noting that "[s]ince multicandidate political committees may contribute up to \$5,000 per year to any candidate . . . , an individual or association seeking to evade the \$1,000 limit on contributions to candidates could do so by channeling funds through a multicandidate political committee." 453 U.S. at 198 (citation omitted) (emphasis added). Although the \$5,000 that could be passed through a PAC was hardly enormous, the Supreme Court still upheld the challenged limit on contributions to PACs "to prevent circumvention of the very limitations on [individual] contributions that this Court upheld in *Buckley*." *Id.* at 197–198. Similarly, in *Colorado II*, the Court addressed the concern that the higher limits on contributions to parties invite donors to circumvent the

individual contribution limits by funneling money through party committees to the candidates of their choice:

Under the Act, a donor is limited to \$2,000 in contributions to one candidate in a given election cycle. The same donor may give as much as another \$20,000 each year to a national party committee supporting the candidate. What a realist would expect to occur has occurred. Donors give to the party with the tacit understanding that the favored candidate will benefit.

533 U.S. at 458. Again, the Court's concern with circumvention was not limited to schemes involving "massive contributions," at least as plaintiffs define the term. Twenty thousand dollars was alarming enough.

Finally, even if the 1976 Amendments to FECA had impeded some circumvention of the individual contribution limits, there is no constitutional rule forbidding the enactment of multiple laws to prevent evasion of these limits. Plaintiffs argue that "if the ability to move 'massive' funds through a conduit to a candidate is already eliminated by one prophylaxis, there remains no justification for an additional prophylaxis." Pls.' Br. at 15. But this "prophylaxis" phraseology comes from a case concerning limits on independent expenditures, see *FEC v. Wisconsin Right to Life, Inc.*, 551 U.S. 449, 479 (2007); there is no support in the case law for this proposition in connection with a challenge to contribution limits.

To the contrary, the Supreme Court has often found that multiple laws and regulations may be necessary to prevent various forms of circumvention through a particular conduit. In *Colorado II*, for example, the Supreme Court upheld the party coordinated spending limits because they prevent donors from circumventing the individual contribution limits by using political parties as "pass-throughs" for contributions to their preferred candidates. 533 U.S. at 464–65. But the coordinated spending limits are hardly the only campaign finance regulation applicable to parties. Indeed, the plaintiffs in *Colorado II* argued that the coordinated spending

limits were overbroad because any problems concerning circumvention through parties could be more narrowly addressed by application or enhancement of the earmarking rules. While not disputing that the earmarking rules might prevent some measure of circumvention—i.e., “the most clumsy attempts to pass contributions through to candidates”—the Supreme Court rejected the argument that this alternative regulation nullified the government’s anti-circumvention interest in the challenged law. *Id.* at 462. As the Court noted, “[plaintiffs’] position ... ignores the practical difficulty of identifying and directly combating circumvention under actual political conditions.” *Id.* Thus, far from being concerned about this “layering” of different prophylactic campaign finance regulations, the *Colorado II* Court affirmatively found that such an approach may be necessary to successfully curb circumvention.

Similarly, the existence of the party coordinated expenditure limits and the earmarking rules discussed in *Colorado II* did not prevent the *McConnell* Court from upholding the additional “prophylactic” party soft money restrictions that BCRA added to the law. The anti-circumvention measures considered in *McConnell* included restrictions on soft-money solicitations by federal candidates and officeholders, 540 U.S. at 182 (finding that “[s]ection 323(e)’s restrictions on solicitations are justified as valid anticircumvention measures”); a measure restricting state and local candidates and officeholders from spending soft money on certain “public communications,” *id.* at 185 (noting that any argument “that soft-money contributions to state and local candidates for ‘public communications’ do not corrupt or appear to corrupt federal candidates, ignores both the record in this litigation and Congress’ strong interest in preventing circumvention of otherwise valid contribution limits”); and the application of federal limits to contributions to state parties used to fund federal election activity, *id.* at 165 (“Having been taught the hard lesson of circumvention by the entire history of campaign finance

regulation, . . . [i]t was ‘neither novel nor implausible’ for Congress to conclude that political parties would react to § 323(a) by directing soft-money contributors to the state committees, and that federal candidates would be just as indebted to these contributors as they had been to those who had formerly contributed to the national parties.’”) (citation omitted).

In short, plaintiffs have offered no grounds for this Court to overrule *Buckley*’s holding that an aggregate limit is an important defense against circumvention of the individual contribution limits.

b. The \$46,200 Aggregate Limit on Contributions to Candidate

In addition to directly furthering the governmental interest in preventing quid pro quo corruption and the appearance of corruption, as discussed in Section II.B.1 *supra*, the \$46,200 aggregate limit prevents circumvention schemes involving the use of numerous candidate committees to funnel money to a favored candidate.

Plaintiffs dispute that the \$46,200 aggregate limit is supported by an anti-circumvention interest, alleging that “*Buckley* did not even suggest that the old ‘overall \$25,000 ceiling’ might be justified by the use of candidate committees as conduits.” Pls.’ Br. at 35. But this allegation is beside the point. The \$25,000 aggregate limit applied to contributions to candidate committees and was upheld by *Buckley*. Regardless of what the *Buckley* Court “suggested” or did not “suggest” in its analysis of the \$25,000 aggregate limit, it could not have sustained the limit without finding that it was constitutional to impose an aggregate cap on contributions to candidates. If an aggregate limit on candidate contributions was not constitutional, then the \$25,000 limit would have been fatally overbroad and Congress would have been required to devise a narrower measure. *See, e.g.*, Pls.’ Br. at 31 (arguing that if this court finds the \$70,800 aggregate limit unconstitutional as applied to national party committees then it should invalidate

the entire law as overbroad because national party committees represent a “substantial” percentage of the law’s total applications).

Further, the fact that “Congress [has] isolated candidate contributions in BCRA’s aggregate contribution limits by giving them their own [\$46,200] limit,” Pls.’ Br. at 39, does not distinguish the narrower \$46,200 aggregate limit from the broader \$25,000 aggregate limit reviewed in *Buckley*. The original aggregate limit capped all “contributions” at \$25,000, including contributions to party committees, candidate committees and PACs. In upholding the \$25,000 aggregate limit, the *Buckley* Court thus necessarily found that it was constitutional no matter how a donor allocated her total contributions among these recipients—even if she directed all \$25,000 only to candidate committees, or, for that matter, only to PACs or party committees.

Also unavailing is plaintiffs’ repetition of the argument that the *Buckley* Court was concerned only with circumvention schemes involving “massive” contributions being routed through candidate committees. Pls.’ Br. at 35–36 (“[C]ontributions to candidate committees could not pose any possibility of circumvention by ‘massive’ contributions to candidate committees that might somehow benefit other candidates.”). To be sure, individuals may only contribute \$5,000 per election cycle to a particular candidate, and candidate committees can only transfer \$4,000 to another candidate committee per election cycle, *see* 11 C.F.R. § 102.12(c)(2). But here, as was the case with the party committee circumvention schemes discussed *supra*, the danger is not that a donor will attempt to funnel a single large contribution to her favored candidate, but rather that she will contribute more modest sums to a large number of candidate committees that will pass on these funds to her favored candidates. Plaintiffs believe it “strains credulity” to suggest that candidates will forward contributions to a donor’s favored candidate and credit the original donor. Pls.’ Br. at 40. But they offer no evidence to support this self-

serving, and dubious, assertion. Further, they ignore the role parties can play in directing and aggregating contributions in such a circumvention scheme. For instance, a donor could contribute to two dozen candidate committees, all of which are permitted to transfer funds to their party's national committees without limit; these party committees can aggregate the many limited contributions from this donor and then direct the money to the donor's favored candidate in the form of party contributions and coordinated spending. Again, the concern is not with one single "massive" contribution being funneled to a favored candidate, but rather with contributions to a "massive" number of candidate committees which are eventually aggregated for the benefit of the donor's preferred candidate. By ensuring that donors cannot route hundreds of contributions to their preferred candidates through other candidate committees, the aggregate limits are a crucial guard against political corruption.

CONCLUSION

For the foregoing reasons, this Court should deny plaintiffs' motion for a preliminary injunction.

Respectfully submitted,

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