

Testimony of Stephen R. Weissman on Proposal to Limit Contributions to Super PACs
Seattle Ethics and Elections Commission

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Let me introduce myself. I am currently an independent political scientist specializing in American Government. I have taught and researched at Fordham University, Stanford University, the University of Texas at Dallas and Howard University. From 1998-2002, I was Legislative Representative for Public Citizen – a nonpartisan national citizens group – where I concentrated on campaign finance reform legislation. From 2002-09 I was Associate Director for Policy at the Campaign Finance Institute, a nonpartisan research institution with a broad audience among federal, state and local policy makers, advocacy groups and scholars.

I have published many reports, articles and book chapters on campaign finance issues. One of my principal interests has been the explosion of independent group spending in elections, including Section 527, 501 (c) (4), 501 (c) (5) and 501 (c) (6) groups and, most recently, Super PACs. Among my publications on this subject are: “BCRA and the 527 Groups,” in Michael Malbin ed., *The Election After Reform* (Lanham, MD: Rowman and Littlefield, 2006), 79-111 (with Ruth Hassan), “Nonprofit Interest Groups’ Election Activities and Federal Campaign Policy,” *The Exempt Organization Tax Review* (October 2006), 21-38 (with Kara Ryan), “Soft Money in the 2006 Election and the Outlook for 2008: The Changing Nonprofits Landscape,” *Campaign Finance Institute 2007*, “Robert Menendez and the Dangers of Unlimited Campaign Contributions,” *Los Angeles Times*, April 7, 2015 and “Courting Corruption,” *The American Interest*, August 25, 2017.

My latest research, a two-part study, “The Speech Now Case and the Real World of Campaign Finance,” published by Free Speech For People in 2016-17, is directly relevant to the proposal that the City of Seattle limit contributions to Super PACs in local elections.

Both of my reports -- which are attached along with my testimony -- were undertaken at my own initiative with FSFP purchasing campaign finance data from the respected Center for Responsive Politics. They show that the great majority of the top 100 individual and 50 organizational donors to Super PACs and other independent groups who supported candidates in the federal 2012 and 2014 election cycles simultaneously gave large campaign contributions directly to the very same candidates. These donors were effectively pursuing a coordinated strategy of direct assistance to candidates within legal contribution limits and indirect support to them through unlimited donations to independent spenders. These findings are applicable to state and local elections as well.

These empirical findings challenge a key decision of the U.S. Appeals Court for the District of Columbia in *SpeechNow.org v. Federal Election Commission* – an ill-informed holding that

changed the parameters of federal campaign finance law and should be challenged. In *SpeechNow*, the Appeals Judges *deduced* from the Supreme Court's majority opinion in *Citizens United* that since independent spending is, by definition, not coordinated with candidates and therefore could not corrupt them, the same must be true of contributions towards independent spending. Hence such contributions could not be constitutionally limited. However, my real-world research demonstrates that while independent spending groups may maintain some distance from their preferred candidates, their largest donors do not. In reality, they are directly financing the same candidates they are assisting through their simultaneous contributions to independent groups. In effect, these large donors are circumventing the legal limits for contributions which were established to prevent corruption and its appearance -- thereby intensifying the danger to our democracy.

Let me briefly convey the most striking findings from the attached reports:

- Of the 100 top individual donors to Super PACs and other independent spenders in each of the 2012 and 2014 cycles, 81 contributed both directly to candidates and to independent groups benefiting the same candidates. The average number of candidates receiving such assistance per donor was eight in 2014 and five in 2012. Donors' direct contributions to candidates averaged \$30,970 (\$3,999 per candidate) and \$15,979 (\$3,318 per candidate) in the respective cycles. Donors' contributions to independent spenders supporting the same candidates averaged \$2.5 million in 2014 and \$3 million in 2012.
- Of the top 50 organizational donors in each cycle, 31 contributed both directly and indirectly to the same candidates. The average number of candidates receiving such assistance in 2014 and 2012 was high: 33 and 37 per donor respectively. Direct contributions to preferred candidates averaged \$265,827 (\$8,071 per candidate) and \$293,057 (\$7,914 per candidate). Contributions to independent spenders supporting the same candidates averaged \$3.2 million per donor in 2014 and \$3 million in 2012.
- Of these top individual and organizational donors, approximately 40-50% contributed to both political party committees and party-linked Super PACs active in the same elections. In the 2014 and 2012 cycles, 42 and 48 of the 100 top individual donors respectively contributed in this way to their party's fortunes. On average, each donor contributed to two party committees per cycle, donating an average of \$84,808 and \$69,522 respectively in 2014 and 2012, while giving \$1 million and \$2.2 million to party-linked Super PACs working in the same election as the party committees; and
- Of the top 50 organizational donors, 21 and 22 respectively contributed to both party and party-linked groups for the same elections in 2014 and 2012. On average, they gave \$70,227 and \$67,221 respectively to two party committees in the two cycles. At the same time, each contributed an average of \$1.2 million and \$1 million to party-linked Super PACs.

In sum, unlimited contributions to PACs permit donors, candidates and parties to circumvent legal contribution limits that have been established to prevent corruption and its appearance. One could of course pretend that the candidates are unaware of who is contributing to them and to the Super PACs supporting them even though all these donations are publicly disclosed, and that Super PAC donors never discuss their contributions with benefiting candidates or party officials.

Such a “see no evil,” “hear no evil” approach does not pass the smell test and should be forthrightly abandoned in favor of citizen initiatives such as ones that limit contributions to Super PACs in local and state elections.

