STATE OF VERMONT

SUPERIOR COURT
WASHINGTON UNIT

CIVIL DIVISION
DOCKET NO.: 759-10-2010 Wncv

STATE OF VERMONT

v.

REPUBLICAN GOVERNORS ASSOCIATION

DECISION ON CROSS-MOTIONS FOR SUMMARY JUDGMENT

In this case, the State of Vermont seeks to enforce Vermont's campaign disclosure and contribution limits against the Republican Governors Association. Both parties have moved for summary judgment. [1]

FACTS

The Republican Governors Association ("RGA") is an unincorporated association based in Washington, D.C. It is organized under section 527 of the Internal Revenue Code. 26 U.S.C. § 527. It accepts donations from individuals and organizations in unlimited amounts. In its bylaws, the RGA lists a wide range of organizational purposes. These include the development of public policy, the promotion of the philosophy of the Republican party, the encouragement of communication among members and other Republican officeholders, and "[t]o assist in the election of Republican gubernatorial candidates and the reelection of incumbent Republican Governors."

As a section 527 organization, the RGA is regulated by the Internal Revenue Service. All contributions and expenditures for any purpose are disclosed in various filings and publicized through a website. See http://forms.irs.gov/politicalOrgsSearch/search/basicSearch.jsp?ck. During the 2009–2010 election cycle, the RGA spent a total of $133,015,394 across the nation. Of this amount, $911,422 was spent in Vermont, both directly and by a Vermont PAC operated by the RGA and called "Green Mountain Prosperity PAC."

In August 2010, the RGA commissioned a television advertisement in Vermont titled Vision for Vermont. The advertisement features then-Governor Douglas as narrator. It praises Lt. Gov. Dubie and shows him speaking with Vermonters at various locations. The text of the ad is:

> Brian Dubie has a vision for a better Vermont –
>
> To help small businesses create jobs;

[1] At the hearing on summary judgment, counsel for RGA explained that they needed additional discovery regarding their affirmative defenses of laches and selective prosecution. These issues are very different from the state's claims. The court will rule separately on the affirmative defenses, either in response to a later dispositive motion or following a hearing.

Reform the regulatory process so companies can start hiring again;

Cut taxes for struggling families so they can keep more of what they earn;

And create opportunities for our kids to stay and work in the state they love.

That's Brian's vision.

Learn more at VisionforVermont.com

RGA paid $13,672 for the production of the advertisement and more than $30,000 for airtime. (The exact amount is disputed, but the answer admits the original allegation of more than $30,000.) The advertisement ran from August 19 to October 13, 2010, on four stations serving the Burlington, Vermont market.

In September 2010, the RGA commissioned a second advertisement entitled "Taxing Shumlin." It paid production costs of $7,582 as well as media charges to air the ad. During the week of September 15 – 27, 2010, RGA paid to broadcast the ad on 16 television stations serving Vermont markets. The text of the "Taxing Shumlin" advertisement is:

Peter Shumlin – "I ask you not to judge us by our rhetoric but by our record."

Announcer: Well, as a proud architect of Act 60, he's raised your property taxes.

Last year, Shumlin led the effort to raise over twenty million dollars in taxes on the working families of Vermont.

This year, he voted to raise taxes again on farmers and manufacturers.

Leaders should be creating jobs, not raising taxes.

He says to judge him on his record.

So call Peter Shumlin and tell him, "we've had enough."

Both advertisements refer the viewer to a website entitled "Vision for Vermont." The website includes a photograph of Lt. Gov. Dubie marching in a parade surrounded by campaign signs.

With respect to the scope of the record, the court denies the motion to strike the state's supplemental statement of material facts. The existence of the Green Mountain Prosperity PAC is not disputed. The parties agree that it is a Vermont PAC, formed by the RGA, which complies with the Vermont election laws. The court has not found the reference to the 2004 litigation in Chittenden Superior Court to be at all illuminating and has not relied upon the prior lawsuit in any way in reaching this decision.

ANALYSIS

The cross-motions for summary judgment raise the following issues:

1. Do the registration and disclosure requirements in Vermont's election law apply to the activities of the RGA in running the two ads concerning the views and positions of Senator Shumlin and Lt. Gov. Dubie?

2. Does Vermont's $2,000 contribution limit apply to donations to the RGA?

3. Do the statutory requirements of registration and disclosure as well as contribution limits violate the First Amendment?

In *State of Vermont v. Green Mountain Future*, Docket No. 758-10-10 Wncv, the court has already ruled that the registration and disclosure requirements apply to a Vermont PAC funded by the Democratic Governor's Association and that these requirements do not violate the First Amendment. This case presents some issues which were not present in the *Green Mountain Future* case. These are the application of the requirements of Vermont election law to a national political organization which raises money without any limit on contributions. Other issues, including the constitutional issue, appeared in a similar way in the *Green Mountain Future* case.

I. Is the RGA subject to Vermont's disclosure and registration requirements?

Vermont election law requires any political action committee ("PAC") spending more than $500 per calendar year to support or oppose a candidate to register with the Secretary of State. The definition of the groups required to register is broad:

> "Political committee" or "political action committee" means any formal or informal committee of two or more individuals, or a corporation, labor organization, public interest group, or other entity, not including a political party, which receives contributions of more than $500.00 and makes expenditures of more than $500.00 in any one calendar year for the purpose of supporting or opposing one or more candidates, influencing an election, or advocating a position on a public question in any election or affecting the outcome of an election.

17 V.S.A. § 2801(4). Relying on the example of federal election law, RGA contends that its advertisements are issue-oriented and do not support or oppose a candidate or in other ways subject the organization to registration in Vermont.

The court reserves for section III analysis of the constitutionality of this provision. Considering only the intended scope of the Vermont legislation, it is clear that the provision is not limited to PACs located in Vermont and applies with equal force to a national organization. The scope of the Vermont statute depends upon the legislative intent as it appears in the language and history of the statute.

Since the adoption of the Vermont Constitution in 1777, this state has been highly concerned with the elimination of political corruption from state and local government. Chapter I, Art. 8 of the Vermont Constitution provides:

> That all elections ought to be free and without corruption, and that all voters, having a sufficient, evident, common interest with, and attachment to the community, have a right to elect officers, and be elected into office, agreeably to the regulations made in this constitution.

For reasons related to the intimate scale of the political community—and, no doubt, the relative insignificance of Vermont within the national economy—prosecutions for political corruption are unknown. (Embezzlement and other cases involving the misuse of public funds are all too frequent, but those cases represent outright theft, not the exchange of money for influence.) Some credit must be due to Vermont's campaign finance legislation which has long sought to assure elections which are "free and without corruption."

The first legislation to address issues of campaign finance was the Corrupt Practices Act, 1902 Vt. Acts & Resolves 6, §§ 1, 3 which outlawed the practice of paying for party nominations and newspaper endorsements. By 1916, state law required the disclosure of contributions and expenditures by candidates in primary elections. 1915 Vt. Acts & Resolves 4, § 22; 1916 Vt. Acts & Resolves 4, § 1 (Sp. Sess.). These disclosure requirements were extended to general elections in the 1970s after Vermont became a state in which candidates from both major parties could win statewide office. In 1976, the disclosure requirements were extended to candidates for the General Assembly and PACs. 1975 Vt. Acts & Resolves 188, § 3 (Adj. Sess.)

Contribution limits followed disclosure requirements. Commencing in 1972, Vermont has imposed limits on contributions to candidates. 1971 Vt. Acts & Resolves 259, § 1 (Adj. Sess.). In 1976, the legislature enacted a limit on contributions to PACs which is currently $2,000. 17 V.S.A. § 2805. In 1997, the legislature enacted extremely stringent campaign contribution and expenditure limits for candidates for statewide office. 1997, No. 64. These included a spending limit of $300,000 for gubernatorial campaigns—an amount which is much less than either the Republican or the Democratic Governors Associations spent in Vermont in the course of the 2010 election cycle. In *Randall v. Sorrell*, 584 U.S. 230 (2006), the Supreme Court struck down these limits on contributions to candidates and expenditures by their campaigns. The decision does not address the limit on contributions to PACs.

Against this historical record of determined efforts to curtail the influence of money in statewide politics, the court must determine how to decide whether the expenditures by the RGA are the types of actions which the Vermont legislature intended to regulate. Turning first to the language of the statute, Vermont election law imposes disclosure requirements and contribution limits on any PAC which spends more than $500 for "the purpose of supporting or opposing one or more candidates, influencing an election, or advocating a position on a public question in any election or affecting the outcome of an election." 17 V.S.A. § 2801(4). Both sides agree that the statutory provisions give rise to an objective test. They agree that the court is not required to inquire into the subjective motivation of the decision-makers at RGA when they commissioned

the pro-Dubie and anti-Shumlin advertisements. [2]

The decision of the legislators to include multiple overlapping terms to define the scope of the statute indicates their intent to impose broad, virtually universal regulation of election-related expenditures. Section 2801 includes political committees which spend money to support or oppose a candidate, influence an election, or advocate a position on a public question. Any of these activities is subject to regulation if it occurs in the context of an election or affects the outcome of an election. Setting aside any potential First Amendment limitations on such legislation, these provisions are drawn as broadly as possible. No expenditures which have any impact on an election are omitted.

In deciding in an objective manner whether the RGA ad campaigns were mounted for the purpose of supporting or opposing a candidate or otherwise influencing the outcome of an election, the court will consider the content of the advertisement and its timing. With respect to timing, the RGA ran its ads during the months of August—October 2010—immediately before a contested election for an open seat. There seemed to be little need or purpose for praising the Lt. Governor after the general election or, for that matter, in the spring and summer months before. The timing is even more persuasive in the case of the ad attacking then-Senator Shumlin. During the months of August and September 2010, the Democratic candidate won a contested primary and a recount. The negative ad was commissioned and aired only after Senator Shumlin emerged with the nomination. The RGA had little interest in running advertisements about the shortcomings of his former rivals. Nor was there interest before he became the nominee or after the general election in criticizing his positions. Viewed from the perspective of an outside observer, without access to the private thoughts and discussions of the RGA leadership, the timing of the ad campaigns is evidence of an obvious purpose to influence the outcome of the election.

Similarly, the language of the advertisements, which is a matter of record and not in dispute, strongly supports the conclusion that their authors sought to influence the outcome of the election. "Vision, job creation, reform, cut taxes, create opportunities"—these are the familiar phrases of the modern political campaign. "Raised your property taxes, voted to raise taxes again, leaders, judge him on his record, call Peter Shumlin and tell him, we've had enough"—these too are the familiar phrases of modern campaigns.

The negative advertisement in particular could serve no likely purpose except to influence the outcome of the election. Before the general election, Senator Shumlin was a state senator from Windham County. The negative advertisements ran primarily in the Chittenden County media market—a long way from the senator's constituents. No other state senator elected as a Democrat and holding beliefs contrary to those of the RGA became the subject of a negative

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[2] The court rejects the RGA's argument that the amendment of § 2801(4) to define PACs and other organizations subject to regulation as groups which receive contributions of more than $500 *and* make expenditures of more than $500 to influence a Vermont election as evidence of the legislators' intent to exclude national organizations from regulation in Vermont. The use of "and" limits the field by excluding any organization, local or national, which receives contributions but does not make election expenditures. It also excludes organizations which do not receive contributions at all such as a business corporation. The definition of "political action committee" is now drawn to include groups which raise funds from the public *and* spend these funds to influence an election. By its terms, the definition does not exempt national organizations from regulation.

campaign ad. It was—obviously—Senator Shumlin's role as candidate for statewide office which explains the decision of a national political organization to buy airtime in Vermont in order to criticize his record on the local property tax.

Summary judgment is appropriate in this case (as it was in the parallel case of the Democratic PAC) because the court can draw an inference about the purpose of the advertisements from the undisputed text and timing of the advertisements. An evidentiary hearing with testimony would add little to the court's decision since the actions taken by the RGA are not disputed.

For these reasons, the court rules that the expenditures by RGA on the two advertisements are subject to Vermont's election laws.

II. Does the $2,000 contribution limit imposed by 17 V.S.A. § 2805 apply to the RGA?

In applying the statute to the undisputed facts, the court reaches the same conclusion with respect to the contribution limits that it reached concerning the registration and disclosure requirements. It is undisputed that the RGA is an unincorporated association which engages in a broad range of politically related activities. In Vermont, these activities included commissioning and running two advertisements which had the purpose of supporting one candidate and opposing the other. In defining "political action committee"—the category into which the RGA falls within the Vermont election law statute—the legislators did not exclude out-of-state organizations. Indeed, the 1997 legislation singled out campaign contributions from out-of-state donors for special regulation and limited these to 25 % of total contributions. That this particular restriction (which is not at issue in this case) was deemed unconstitutional in *Randall v. Sorrell* does not affect its significance today as a sign of the legislative intent to impose stringent limits on both in-state and out-of-state spending on elections.

It is quite easy to conclude that as written § 2805 prohibits the RGA from accepting contributions in excess of $2,000 if it spends more than $500 to affect a Vermont statewide election. This result is unlikely to come as a complete surprise to the RGA since it previously set up its Vermont PAC (Green Mountain Prosperity PAC) to comply with the local legislation. The more complicated question is whether a $2,000 contribution limit is constitutional.

III. Constitutionality of the disclosure and disclaimer provisions and contribution limits

For the reasons the court has already outlined in its decision in Docket No. 758-10-10, the court concludes that the requirements of disclosure and disclaimer do not violate the First Amendment. The court will file a copy of its decision in Docket No. 758-10-10 in this case.

To summarize, the state has demonstrated that these measures meet the standard of "exacting scrutiny" for disclosure requirements which burden speech but do not prohibit or regulate its content. The interest of the state in disclosure of election expenditures is found in the need to "provide the electorate with information about the sources of election-related spending." *Citizens United v. Federal Election Commission*, 130 S.Ct. 876, 914 (2010) (internal quotations omitted). The burden imposed upon the RGA is relatively modest since the organization already provides virtually identical disclosure of its expenditures to the Internal Revenue Service. The

activities of the Democratic PAC and the RGA are mirror-images of one another. The court concludes that summary judgment is appropriate with respect to the failure of both the Republican and Democratic organizations to comply with the disclosure and disclaimer requirements.

In the RGA case, the state also seeks to enforce the $2,000 contribution limit. This requires separate analysis since such a claim was omitted from the Democratic PAC case.

Determining the constitutionality of a contribution limit to a PAC requires two steps:

1. The activities of the PAC must be properly subject to election law regulation. A group involved in genuine issue advocacy cannot be limited in the amounts it collects from its supporters. As explained below, the court concludes that the activities involved in this case satisfy the test of functional express advocacy and may be subject to contribution limits.

2. The limits imposed must be tailored or closely drawn to meet the state's interest in preventing corruption and the appearance of corruption. Limits which are too low prevent political debate and amplify the advantages of incumbency. These are the principles upon which Vermont's limits on contributions to candidates were previously struck down. See *Randall v. Sorrell*, 548 U.S. 230 (2006).

For the same reasons that the court has previously concluded that both parties' advertisements are subject to disclosure and disclaimer requirements, the court concludes that the RGA ads are not protected from contribution limits because of their content or purpose. The most recent decision of the U.S. Supreme Court to attempt to define the border between the discussion of issues (protected) and candidates (subject to state and federal regulation) is *Federal Election Commission v. Wisconsin Right to Life, Inc.*, 551 U.S. 449 (2007). In that decision, the court rejected any inquiry into the subjective intent of the group sponsoring the advertisement. The majority decision endorsed an objective examination of the content of the advertisement:

> To safeguard [freedom of speech], the proper standard for an as-applied challenge [to the federal prohibition on certain expenditures within 30 days of an election] must be objective, focusing on the substance of the communication rather than amorphous considerations of intent and effect. It must entail minimal if any discovery, to allow parties to resolve disputes quickly without chilling speech through the threat of burdensome litigation. And it must eschew the "open-ended rough-and-tumble of factors," which "invit[es] complex argument in a trial court and a virtually inevitable appeal." In short, it must give the benefit of any doubt to protecting rather than stifling speech.
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> In light of these considerations, a court should find that an ad is the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate. Under this test, [the ads proposed by the Wisconsin Right to Life organization], are plainly not the functional equivalent of express advocacy. First, their content is consistent with that of a genuine issue ad: The ads focus on a legislative issue,

> take a position on the issue, exhort the public to adopt that position, and urge the public to contact public officials with respect to the matter. Second, their content lacks indicia of express advocacy: The ads do not mention an election, candidacy, political party, or challenger; and they do not take a position on a candidate's character, qualifications, or fitness for office.

Id. at 469–70 (internal quotations omitted). The RGA ads satisfy the "no other reasonable interpretation" test expressed by Chief Justice Roberts in *WRTL*. Each focuses exclusively on the character, qualifications, and fitness for office of a major party candidate for state office. Lt. Governor Dubie is described as a visionary, a job creator, a reformer, a tax cutter, and a creator of economic opportunity. Senator Shumlin is described as someone who has raised taxes on working families, farms, and manufacturers. The ad calls for the viewer to "judge him on his record" and tell him "we've had enough."

The ads can be understood only as a call to vote for one man and to vote against the other. No other communication except a campaign ad or a stump speech is likely to describe Lt. Governor Dubie with such focused warmth and approval. Although the words "vote" and "election" do not appear in the text, there is only one fair interpretation of the meaning of the ad which is "vote for this man." The negative ad is similarly transparent in its purpose and meaning. Senator Shumlin is described as fiscally irresponsible. He is to be "judged"—presumably on the first Tuesday in November—and told that the viewers have had enough. The ad can only be understood as a message to vote against Senator Shumlin. It takes no sophistication to understand these messages. They are designed to be understood and the message to any viewer is unambiguous. The court concludes, therefore, that the ads are not exempt from the contribution limit because they are issue ads.

The court rejects RGA's argument that as a national organization with multiple purposes, it is essentially too large and complex to be subject to regulation at the state level. The RGA seeks to limit Vermont's regulatory process to organizations whose primary purpose is to influence Vermont elections. ("There is no rationale for subjecting a national organization with tangential activity in Vermont, which has not solicited or received contributions for the specific purpose of supporting or opposing Vermont candidates, to the same status and obligations that a Vermont-centric committee has." RGA Memo. in Support of Motion for Summary Judgment at 9.) This position has found support in cases such as *North Carolina Right to Life v. Leake,* 525 F.3d 274, 287-90 (4th Cir. 2008).

The RGA's position was explicitly rejected in *Human Life of Washington Inc.* v. *Brumsickle*, 624 F.3d 990 (2010). In *Brumsickle* the Ninth Circuit "rejected the notion that the First Amendment categorically prohibits the government from imposing disclosure requirement on groups with more than one 'major purpose.'" *Id.* at 1011. In Washingston State, prior decisional law had limited the state PAC disclosure requirements to groups with a "major purpose" of affecting governmental decisions by supporting or opposing candidates. *Id.* at 997. Such an interpretation was necessary to protect organizations from election law regulation if their support of a candidate was a marginal aspect of their activities. The Vermont Supreme Court has not had occasion to consider imposing a similar restrictive interpretation. It is not necessary to consider such a restriction in this case, however, because the election of Republican candidates for

governor is one of the major stated goals of the organization and the expenditures made to that end in Vermont in 2010 were substantial. The court will follow the *Brumsickle* decision in finding no constitutional barrier to the regulation of a PAC with several purposes – one of which is to influence elections at the state level.

The second question is whether the $2,000 limit is so low that it unduly stifles the type of criticism and debate which are essential to the electoral process. Commencing with *Buckley v. Valeo*, 424 U.S. 1 (1976) (per curiam), the U.S. Supreme Court has upheld federal and state limits on the amount of contributions to political campaigns and PACs so long as the statutes are closely drawn to match a sufficiently important state interest. See *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377 (2000); *California Medical Association v. Federal Election Commission*, 453 U.S. 182 (1981). In the *California Medical Association* case, the Court upheld a $5,000 annual limit on contributions to multicandidate political committees. Nearly 20 years later, in *Nixon*, the Court upheld a $1,075 annual limit on contributions to candidates for statewide office in Missouri.

In *Nixon*, the PAC and candidate argued that *Buckley*, which upheld a $1000-per-election limit on contributions to federal candidates, set a constitutional minimum such that after 24 years of inflation, Missouri's $1,075 limit must be unconstitutional. *Nixon*, 528 U.S. at 397. The Court rejected such an analysis with sweeping language:

> we referred [in *Buckley*] instead to the outer limits of contribution regulation by asking whether there was any showing that the limits were so low as to impede the ability of candidates to "amas[s] the resources necessary for effective advocacy[.]" We asked, in other words, whether the contribution limitation was so radical in effect as to render political association ineffective, drive the sound of a candidate's voice below the level of notice, and render contributions pointless. Such being the test, the issue in later cases cannot be truncated to a narrow question about the power of the dollar, but must go to the power to mount a campaign with all the dollars likely to be forthcoming. As Judge Gibson put it, the dictates of the First Amendment are not mere functions of the Consumer Price Index.

Id. (citation omitted). The Court found those outer limits exceeded in *Randall v. Sorrell*, 584 U.S. 230 (2006).

In *Randall*, the Court rejected as too low Vermont's limits on contributions to candidates, the *highest* of which was $400. The $400 limit applied to the entire two-year general election cycle, including both the primary and the general election. The Court found that these limits were the lowest in the country, well below the lowest contribution limit it had ever upheld before, not indexed for inflation, applied broadly to volunteer activity, created a distinct incumbent advantage in highly competitive races, prevented parties from assisting their candidates, and were entirely unsupported by any special justification. All of these factors "[t]aken together" demonstrated that the limits were not narrowly tailored. *Id.* at 253.

The question in this case is whether the $2,000 limit, as applied to the RGA, is a mere difference

in degree of tailoring -- the wisdom of which the court should accept in deference to the legislature's empirical judgment and expertise -- or whether it is a difference in kind, revealing an unconstitutional lack of proportionality.

The $2,000 limit applies to both the primary and general elections and is not indexed to inflation. The other "danger signs" that would require the court to evaluate the evidentiary record in detail, as the U.S. Supreme Court did in *Randall*, to find a lack of proportionality are not present. The RGA ran 2 ads leading up to the 2010 general election at a total cost that apparently was under $200,000, less than the value of 100 contributions at the statutory maximum. Nothing in the record indicates that adherence to the limit would have driven its "voice below the level of notice" or otherwise would have "render[ed] political association ineffective."

As the timing and content of the RGA's ads demonstrate, the RGA interested in having an impact upon the general election, not the primary election. Though the $2,000 limit caps contributions during both combined, it is not necessarily fair to treat the effective limit as $1,000 per election as though corresponding expenditures would be split equally on both elections. The RGA's speech plainly was directed at the general election exclusively. In effect, for an organization like the RGA, Vermont's contribution limit is far more generous than the $1,075 limit upheld in *Nixon*.

Currently, in the context of far more costly federal elections, most political committees may receive annual contributions, regardless of the source, not exceeding $5,000; federal candidates may receive contributions from individuals not exceeding $2,500. 11 C.F.R. § 110.1(b)(1), (d); Federal Election Commission, Contribution Limits 2011–2012, http://www.fec.gov/pages/brochures/fecfeca.shtml#Election_Law_Library (last visited Sept. 29, 2011). Vermont's $2,000 limit on contributions to political committees is not so low or severe that it stifles effective advocacy or creates an incumbency advantage. There is no constitutional need for "fine[r] tuning." *Buckley*, 424 U.S. at 30.

In short, the legitimate concerns that determined the outcome in *Randall* are not present in this case. In reality, the RGA's objection to the $2,000 limit appears to be not so much that it is too low to enable it to make its voice heard in Vermont, but instead that the RGA has a national presence and it is unfair to impose Vermont's contribution limit on its activities outside of Vermont. This "problem," were it unavoidable under Vermont statutes, probably would lead to the withdrawal of the RGA from activities within the state—a result directly opposite from the protection of speech and inherently absurd. The RGA's solution—to conclude that Vermont's election statutes do not apply to it—would defeat an otherwise legitimate effort to regulate election-related donations and the influence of "soft money" in Vermont elections.

The RGA's perceived problem is one of its own creation. It set up a Vermont PAC which apparently was prepared to operate within the state in complete compliance with the Vermont statute—the RGA nevertheless chose not to use it for these advertisements. Alternatively, it could limit its advertising to genuine issue ads which are constitutionally exempt from regulation. It did neither. Instead, the record shows that it attempted to skirt state regulation by running advertisements which functioned as campaign ads but lacked explicit language such as "Vote for Lt. Governor Dubie." This strategy was employed by both national governors'

associations and carried the risk as we have seen that both associations would be found in violation.

CONCLUSION

The court rules that the RGA is subject to Vermont's election laws and that the disclosure and disclaimer requirements do not violate the First Amendment. Vermont's $2,000 contribution limit is not unconstitutionally low.

ORDER

The state's motion for summary judgment is granted on its affirmative claims except with respect to the affirmative defenses. The RGA's motion for summary judgment is denied. The parties shall confer and submit a proposed discovery order with respect to the remaining issues – not to exceed a total of 90 days – with deadlines for summary judgment motions and trial readiness.

Dated: 10/3/11

Geoffrey Crawford,
Superior Court Judge