UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CHRIS RUFER, LIBERTARIAN PARTY OF INDIANA, and LIBERTARIAN NATIONAL CONGRESSIONAL COMMITTEE INC, *Plaintiffs*, v. FEDERAL ELECTION COMMISSION, *Defendant.*	Civil Action No. _____ THREE-JUDGE COURT REQUESTED ORAL ARGUMENT REQUESTED

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

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INTRODUCTION

This Court should grant Plaintiffs' Motion for a Preliminary Injunction and enjoin the FEC from enforcing 2 U.S.C. § 441i(a)-(c) against Plaintiffs Libertarian National Congressional Committee Inc. ("LNCC") and Libertarian Party of Indiana ("LPIN"), insofar as they each wish to create, solicit and accept funds for, and spend money from a separate, segregated "independent expenditure"-only ("IE-only") account, which would accept unlimited contributions. This Court likewise should enjoin the FEC from enforcing 2 U.S.C. § 441a(a)(1)(B) and (D) against Plaintiff Chris Rufer, insofar as he wishes to contribute funds in excess of the standard limits to these IE-only accounts.

FACTUAL BACKGROUND

The Bipartisan Campaign Reform Act ("BCRA"), Pub. L. No. 107-155, 116 Stat. 81 (Mar. 27, 2002) prohibits a person from contributing more than $32,400 annually to a national political party committee, BCRA § 307(a)(2), *codified at* 2 U.S.C. § 441a(a)(1)(B); *see also* 78 FED. REG. 8,530, 8,532 (indexing for inflation), or more than $10,000 annually to a state political party committee, BCRA § 102(3), *codified at* 2 U.S.C. § 441a(a)(1)(D) (hereafter, "BCRA Contribution Limits"). BCRA also prohibits national political party committees from soliciting, accepting, or spending funds that were not raised in compliance with these limits. BCRA § 101(a), *codified at* 2 U.S.C. § 441i(a). It similarly bars state political party committees from spending money, either directly for federal election-related purposes, or to raise funds for use in connection with federal elections, that was not raised in compliance with those limits. BCRA § 101(a), *codified at* 2 U.S.C. § 441i(b)-(c) (hereafter, "BCRA Compliance Requirements").

Plaintiff LNCC, a national political party committee, and Plaintiff LPIN, a state political party committee, each have a traditional "hard money" account for use in connection with

federal elections. Declaration of Daniel Drexler, ¶ 4 (hereafter, "Drexler Decl."); Declaration of Evan McMahon, ¶ 4 (hereafter, "McMahon Decl."). The parties use their hard money accounts to make contributions to, and engage in coordinated expenditures with, their respective federal candidates; contributions to their respective hard money accounts are subject to BCRA's Contribution Limits.

The LNCC and LPIN each wish to establish a separate, segregated account, entirely independent of their traditional hard money accounts, which would be used for the sole purpose of funding independent expenditures and be able to accept unlimited contributions for that exclusive purpose. Drexler Decl. ¶ 10; McMahon Decl. ¶ 6. *See, e.g.*, *Carey v. FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011) (recognizing right of non-party political committees to establish segregated IE-only accounts which may accept unlimited contributions); *see also Emily's List v. FEC*, 581 F.3d 1 (D.C. Cir. 2009) (recognizing right of non-party political committees to establish segregated accounts which may accept unlimited contributions to fund get-out-the-vote and voter registration drives); *cf. SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc) (recognizing right of a non-party political committee that solely engages in independent expenditures to accept unlimited contributions). The term "independent expenditure," in this context, is used in its broadest constitutional sense, as including any political communications that are not coordinated in any way with a federal candidate or her campaign. The BCRA Compliance Requirements bar the establishment of any such IE-only accounts, and the BCRA Contribution Limits lacks any exception that would permit unlimited contributions to such accounts.

The LNCC and LPIN each will impose a plethora of interlocking protections to ensure that its IE-only account operates truly independently from both the party personnel responsible

for contributions to (and expenditures coordinated with) federal candidates, as well as from federal candidates themselves and their campaigns. Drexler Decl. ¶¶ 11, 14-15, 17; McMahon Decl. ¶¶ 7, 10-11, 13. Each IE-only account will be overseen exclusively by a special IE-only committee, chaired by a person appointed biennially by the Chair of the party establishing it (*i.e.*, the LNCC or LPIN, as appropriate). Drexler Decl. ¶¶ 12-13; McMahon Decl. ¶¶ 8-9. The chair will be subject to removal only for cause, by a 3/4 vote of the LNCC's Executive Committee or LPIN's Central Committee, as appropriate. The chair of the IE-only committee may appoint other party members to the committee as needed. Drexler Decl. ¶ 13; McMahon Decl. ¶ 9. Neither the chair of an IE-only committee, nor any members, may be a federal officeholder or candidate. Drexler Decl. ¶ 15(a); McMahon Decl. ¶ 11(a). The Chairman of the LNCC intends to appoint Stuart Buttrick as the first chair of its IE-only committee, McMahon Decl. ¶ 9, and the Chairman of the LPIN intends to appoint Brad Klopfenstein as the first chair of its IE-only committee, Drexler Decl. ¶ 13.

Members of a party's IE-only committee will not interact with any federal candidates, federal campaigns, or their agents, and will not play any role in making decisions concerning the party's political contributions or coordinated expenditures from its "traditional" account. Drexler Decl. ¶ 15; McMahon Decl. ¶ 11. Each IE-only committee will be solely responsible for developing, approving, and placing all advertisements and other political communications funded by the IE-only fund. Drexler Decl. ¶ 14; McMahon Decl. ¶ 10. No other party personnel will be involved at any stage in the process. Drexler Decl. ¶ 14; McMahon Decl. ¶ 10; *cf. Colo. Republican Fed. Campaign Comm. v. FEC*, 518 U.S. 604, 614 (1996). An IE-only committee will never meet at the same time or place as the party's Central or Executive Committee or other personnel making decisions concerning the party's contributions or coordinated expenditures.

Importantly, the IE-only committees will not engage in "tallying" or similar activities. Drexler Decl. ¶ 16; McMahon Decl. ¶ 12. They will not notify their respective parties' officials, candidates, or campaigns about the identities of account contributors, or the amount, timing, or frequency of a person's contributions. Drexler Decl. ¶ 16; McMahon Decl. ¶ 12. *Cf. FEC v. Colo. Republican Fed. Campaign Comm.*, 533 U.S. 431, 459 (2001); *McConnell v. FEC*, 540 U.S. 93, 146 (2003). The IE-only committees will neither ask federal candidates or officials to solicit funds for them or direct funds to them, nor accept contributions made at the behest of such candidate or officeholders. Drexler Decl. ¶ 17; McMahon Decl. ¶ 12. The committee also will not engage in fundraisers with federal officeholders or candidates, or participate in joint fundraising committees with them. Drexler Decl. ¶ 17; McMahon Decl. ¶ 12.

The IE-only committees will further insulate themselves by refusing to accept contributions from any person who asks or suggests that the contributed funds be "earmarked" in any way, "credited" to a particular candidate, or otherwise spent for the benefit of any particular candidate or be dedicated to any particular races. Drexler Decl. ¶ 18; McMahon Decl. ¶ 14. *Cf. McConnell*, 540 U.S. at 146. Absolutely no funds will be transferred from an IE-only account to any party committee's traditional "hard money" account; there would be a fixed, impermeable boundary between them. Drexler Decl. ¶ 11(c); McMahon Decl. ¶ 7(c). The LNCC and LPIN are willing to establish any other reasonable prophylactic safeguards that this Court determines are necessary to allow them to maintain segregated IE-only accounts that accept unlimited contributions. Drexler Decl. ¶ 19; McMahon Decl. ¶ 15.

SUMMARY OF ARGUMENT

The First Amendment guarantees the fundamental right of nearly all U.S. persons and entities to make unlimited independent expenditures concerning candidates, elections, and other

important political matters. Independent expenditures, the Supreme Court has held, cannot lead to *quid pro quo* corruption, the appearance of such corruption, or the circumvention of other contribution limits, and there is no other constitutionally permissible basis for limiting them.

Because independent expenditures are constitutionally innocuous, the overwhelming majority of circuits have held that the Government lacks any valid interest in limiting the amount of contributions that a non-party political committee that exclusively engages in independent expenditures may receive to fund such expenditures. Contributions to such an "IE-only" committee do not involve actual or apparent corruption, or create any risk of circumvention.

Many courts have gone a step further and held that an entity does not lose the right to accept unlimited contributions for the exclusive purpose of funding its independent expenditures because it also wishes to contribute to candidates. They have held that a non-party political action committee (*i.e.*, a PAC) has the right to establish a separate, segregated "IE-only" account which may accept unlimited contributions, so long as the committee makes any political contributions or coordinated expenditures from its "hard money" account which complies with all limits on incoming and outgoing contributions.

The Supreme Court has already recognized that political party committees, no less than PACs, are able to engage in truly independent expenditures that are not coordinated with their candidates, and have the fundamental First Amendment right to engage in such "pure speech" without limit. A political party's independent expenditures, the Court recognized, neither give rise to actual or apparent *quid pro quo* corruption, nor provide a means of circumventing other campaign finance limits. Thus, like PACs, political party committees should have the right to establish separate, segregated IE-only accounts that may accept unlimited contributions to subsidize such speech. BCRA's Contribution Limits, BCRA §§ 102(3), 307(a)(2), *codified at* 2

U.S.C. § 441a(a)(1)(B), (D), and Compliance Requirements, BCRAA § 101(a), *codified at* 2 U.S.C. § 441i(a)-(c), therefore violate the First Amendment as applied to political party committees' segregated IE-only funds.

ARGUMENT

A. The First Amendment Protects the Right of Most Entities, Including Political Parties, to Engage in Unlimited Independent Expenditures.

An "independent expenditure" is a political advertisement, mailing, website, or other communication that is not "controlled by or coordinated with [a] candidate [or] his campaign." *Buckley v. Valeo*, 424 U.S. 1, 46 & n.53 (1976).[1] The First Amendment generally prohibits the Government from limiting a person's independent expenditures. *See generally Buckley*, 424 U.S. at 39 (invalidating limits on independent expenditures by individuals).[2] This principle applies equally to political parties, allowing them to make unlimited independent expenditures. *Colo. Republican Fed. Campaign Comm. v. FEC*, 518 U.S. 604, 614 (1996) ("*Colorado I*") (invalidating "a provision that limits a political party's independent expenditure").

Limits on the amount of an entity's independent expenditures abridge the First Amendment right to freedom of speech, because they are "direct and substantial restraints on the

[1] The statutory definition of "independent expenditure" also includes expenditures made "in concert or cooperation with[,] or at the request or suggestion of," a political party committee. 2 U.S.C. § 431(17). This portion of the definition is unconstitutional, at least as applied to political parties, since it would make it impossible for political party committees themselves to engage in independent expenditures, yet the Supreme Court expressly recognized their fundamental First Amendment right to do so in *Colorado Republican Federal Campaign Comm. v. FEC*, 518 U.S. 604, 614 (1996) ("*Colorado I*") (holding that a political party's independent expenditure "falls within the scope of the Court's precedents that extend First Amendment protection to independent expenditures").

[2] *See also FEC v. Nat'l Conservative Political Action Comm.*, 470 U.S. 480, 496 (1985) ("[T]he PACs' [independent] expenditures are entitled to full First Amendment protection.") (hereafter, "*NCPAC*"); *FEC v. Mass. Citizens for Life, Inc.*, 479 U.S. 238, 263 (1986) (same for certain non-profit corporations); *Citizens United v. FEC*, 558 U.S. 310, 365 (2010) (same for all domestic corporations).

quantity of political speech" that lies "'at the core of our electoral process and of the First Amendment freedoms.'" *Buckley*, 424 U.S. at 39 (quoting *Williams v. Rhodes*, 393 U.S. 23, 32 (1968)); *see also NCPAC*, 470 U.S. at 493. Independent expenditure limits also "impinge on protected associational freedoms" by limiting the ability of groups to "effectively amplify[] the voice of their adherents." *Buckley*, 424 U.S. at 22; *see also NCPAC*, 470 U.S. at 494

The Supreme Court has held that the Government generally lacks any valid interest in limiting independent expenditures. The Government may restrict First Amendment rights to prevent either actual corruption or the appearance of corruption, but this interest is "limited to *quid pro quo* corruption." *Citizens United*, 558 U.S. at 359; *see also McCutcheon v. FEC*, 134 S. Ct. 1434, 1441 (2014) ("Any regulation must instead target what we have called 'quid pro quo' corruption or its appearance."); *NCPAC*, 470 U.S. at 497 (defining "corruption" as "the financial *quid pro quo*: dollars for political favors"); *Buckley*, 424 U.S. at 27. The Court has repeatedly held that independent expenditures do not "pose dangers of real or apparent corruption comparable to those identified with large campaign contributions," *Buckley* 424 U.S. at 45, even when such expenditures are made by political action committees, *NCPAC*, 470 U.S. at 497, or political party committees, *Colorado I*, 518 U.S. at 617-18 (refusing to "assum[e] . . . that a limitation on political parties' independent expenditures is necessary to combat a substantial danger of corruption").

Independent expenditures are not associated with actual or apparent corruption because the "absence of prearrangement and coordination of an expenditure with the candidate or his agent not only undermines the value of the expenditure to the candidate, but also alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate." *Buckley*, 424 U.S. at 47; *accord NCPAC*, 470 U.S. at 498 ("[I]ndependent

expenditures by political committees" have "no tendency . . . to corrupt or to give the appearance of corruption."). Even when the independent expenditure is made by a political party committee, "the absence of prearrangement and coordination . . . help[s] to alleviate any danger that a candidate will understand the expenditure as an effort to obtain a quid pro quo." *Colorado I*, 518 U.S. at 616 (quotation marks omitted); *see also Citizens United*, 558 U.S. at 357.

Likewise, because an independent expenditure, by definition, cannot be made in concert or coordination with a candidate, *see Buckley*, 424 U.S. at 46 & n.53, it is fundamentally different from a contribution to a candidate, not a way of circumventing base limits on such contributions, *see Nixon v. Shrink Mo. Gov't PAC*, 528 U.S. 377, 386-87 (2000) (explaining that *Buckley* "drew a line between expenditures and contributions, treating expenditure restrictions as direct restraints on speech"). A person who either personally makes independent expenditures concerning a candidate, or contributes to an outside group to make such expenditures, is not deemed to be improperly or dangerously circumventing the base limit on contributions to that candidate. *Cf. Buckley*, 424 U.S. at 47; *see also McCutcheon*, 134 S. Ct. at 1461. Thus, the First Amendment does not permit the Government to limit the amount of independent expenditures a person or entity may make.

B. The Government Lacks a Valid Interest in Limiting the Amount of Contributions an Entity May Accept for the Sole Purpose of Engaging in Independent Expenditures

Because independent expenditures pose no risk of actual or apparent corruption, the Government also lacks a valid interest in limiting the amount of contributions that a political committee may receive for the exclusive purpose of funding such expenditures.

1. Virtually every court to consider the issue has held that contribution limits are unconstitutional as applied to an entity that solely engages in independent expenditures and does

not contribute to candidates ("IE-only committees"). Contributing to an IE-only committee allows people to "collectively enjoy and effectuate th[e] expressive freedoms that they are entitled to exercise individually," allowing their messages to "become more widely and effectively disseminated." *Long Beach Area Chamber of Comm. v. City of Long Beach*, 603 F.3d 684, 698 (9th Cir. 2010).

The consensus among the circuits is that, because the Government may not limit the amount of independent expenditures a person makes, restrictions on the amount that people may contribute to make independent expenditures together through a political committee would violate First Amendment associational rights. "[I]f one person is constitutionally entitled to spend $1 million to run advertisements supporting a candidate (as *Buckley* held), it logically follows that 100 people are constitutionally entitled to donate $ 10,000 each to a non-profit group that will run advertisements supporting a candidate." *Emily's List v. FEC*, 581 F.3d 1, 10 (D.C. Cir. 2009). As the Supreme Court itself explained, in striking down a limit on contributions to IE-only committees regarding ballot measures, "To place a Spartan limit—or indeed any limit—on individuals wishing to band together to advance their views . . . while placing none on individuals acting alone, is clearly a restraint on the right of association." *Citizens Against Rent Cont./Coalition for Fair Hous. v. Berkeley*, 454 U.S. 290, 296 (1981). The First Amendment does not allow the Government "to mute the voice of one individual, and it cannot be allowed to hobble the collective expression of a group." *Id.*

Limits on contributions to IE-only committees also violate the First Amendment right to freedom of speech. Since an IE-only committee has an unlimited right to "engag[e] in . . . advocacy" through independent expenditures, the Government may not indirectly restrict such communications by limiting the committee's ability to "seek[] funds to engage in that advocacy."

Texans for Free Enter. v. Tex. Ethics Comm'n, 732 F.3d 535, 538 (5th Cir. 2013); *see also Republican Party v. King*, 741 F.3d 1089, 1096-97 (10th Cir. 2013) ("Because there is no corruption interest in limiting independent expenditures, there can also be no interest in limiting contributions to non-party entities that make independent expenditures."). Limiting contributions to IE-only committees "automatically affects expenditures, and limits on expenditures operate as a direct restraint on freedom of expression of a group or committee desiring to engage in political dialogue." *Citizens Against Rent Cont.*, 454 U.S. at 299. Thus, since there is no link between a political committee's independent expenditures and the possibility of actual or apparent corruption,[3] IE-only committees have a fundamental First Amendment right to accept unlimited contributions to fund their independent expenditures.[4]

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[3] *Wis. Right to Life State PAC v. Barland*, 664 F.3d 139, 154 (7th Cir. 2011) ("[A]fter *Citizens United* there is no valid governmental interest sufficient to justify imposing limits on fundraising by independent-expenditure organizations."); *Long Beach Area Chamber of Comm.*, 603 F.3d at 696 ("Nor has the City shown that contributions to the Chamber PACs for use as independent expenditures raise the specter of corruption or the appearance thereof."); *N.C. Right to Life, Inc. v. Leake*, 525 F.3d 274, 293 (4th Cir. 2008) ("[I]t is 'implausible' that contributions to independent expenditure political committees are corrupting."); *see also N.Y. Prog. & Prot. PAC v. Walsh*, 733 F.3d 483, 487 n.1 (2d Cir. 2013) ("[T]he threat of quid pro quo corruption does not arise when individuals make contributions to groups that engage in independent spending on political speech."); *Stay the Course W. Va. v. Tennant*, No. 12-CV-01658, 2012 U.S. Dist. LEXIS 112147, at *17 (S.D. W. Va. Aug. 9, 2012) ("The government has no interest in maintaining the contribution limit as applied to [independent expenditure-only committees]."); *Yamada v. Weaver*, 872 F. Supp. 2d 1023, 1041 (D. Haw. 2012) ("[P]revention of corruption or its appearance cannot justify limiting campaign contributions if those contributions can lead only to independent campaign expenditures."); *Personal PAC v. McGuffage*, 858 F. Supp. 2d 963, 969 (N.D. Ill. 2012) ("[R]egulations imposing limits on fundraising by independent expenditure organizations cannot be justified.").

[4] *Wis. Right to Life State PAC*, 664 F.3d at 154 ("Wisconsin's $10,000 aggregate annual contribution limit is unconstitutional as applied to organizations . . . that engage only in independent expenditures for political speech. This is true even though the statute limits contributions, not expenditures."); *Leake*, 525 F.3d at 295 (holding that contribution limits are "unconstitutional as applied to independent expenditure political committees"); *see also N.Y. Prog. & Prot. PAC*, 733 F.3d at 487 ("[A] donor to an independent expenditure committee . . . is even further removed from political candidates and may not be limited in his ability to contribute to such committees."); *Fund for Louisiana's Future v. La. Bd. of Ethics*, No. 14-0368, 2014 U.S.

The D.C. Circuit, sitting *en banc*, embraced this conclusion in *SpeechNow.org v. FEC*, 599 F.3d 686, 689 (D.C. Cir. 2010) (en banc). The court held that contribution limits are "unconstitutional as applied to individuals' contributions" to "an unincorporated nonprofit association" that "intends to engage in express advocacy" and will "operate exclusively through independent expenditures." It began by reiterating *Citizens United*'s holding that "'independent expenditures . . . do not give rise to corruption or the appearance of corruption.'" *Id.* at 694 (quoting *Citizens United*, 130 S. Ct. at 909). The D.C. Circuit then explained:

> In light of the [Supreme] Court's holding as a matter of law that independent expenditures do not corrupt or create the appearance of quid pro quo corruption, contributions to groups that make only independent expenditures also cannot corrupt or create the appearance of corruption. The Court has effectively held that there is no corrupting 'quid' for which a candidate might in exchange offer a corrupt 'quo.' . . . ***[T]he government can have no anti-corruption interest in limiting contributions to independent expenditure-only organizations.***

Id. at 695-96 (emphasis added).

2. Many courts, including this Court, have taken the next logical step, recognizing that entities may not be forced to choose between exercising their fundamental First Amendment right to contribute to candidates, and their equally important First Amendment right to accept unlimited contributions for the exclusive purpose of making independent expenditures to express their political views. These courts have held that, even if an entity chooses to make campaign contributions to candidates, it retains the First Amendment right to establish a separate,

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Dist. LEXIS 52659, at *29 (E.D. La. Apr. 16, 2014) ("Louisiana's prohibitory limit on contributions to such independent committees cannot withstand First Amendment scrutiny."); *Yamada*, 872 F. Supp. 2d at 1039 ("[C]ontribution limitations to organizations that make only independent campaign expenditures are invalid."); *Tennant*, 2012 U.S. Dist. LEXIS 112147, at *17-18 (holding that plaintiffs "are very likely to succeed" in their challenge to a statute limiting "contributions for independent expenditures"); *Mich. Chamber of Comm. v. Land*, 725 F. Supp. 2d 665, 696 (W.D. Mich. 2010) ("[I]f the PAC does not coordinate the expenditure of its funds . . . with the candidate . . . *Citizens United* forbids the State from denying the corporations/unions their constitutional right to give funds to the PAC."); *McGuffage*, 858 F. Supp. 2d at 971 ("[T]he First Amendment prohibits governments from limiting contributions to independent-expenditure-only PACs.").

segregated account to fund its independent expenditures, and may accept unlimited contributions to that segregated account. *See Carey v. FEC*, 791 F. Supp. 2d 121, 126-27, 131 (D.D.C. 2011); *Republican Party v. King*, 741 F.3d 1089, 1096-97 (10th Cir. 2013); *Thalheimer v. City of San Diego*, No. 09-CV-2862-IEG (BGS), 2012 U.S. Dist. LEXIS 6563, at *38-40 (S.D. Cal. Jan. 20, 2012); *see also Emily's List v. FEC*, 581 F.3d 1 (D.C. Cir. 2009) (holding that the First Amendment permits a PAC to establish a "hard money" account, subject to federal contribution limits, for candidate contributions and coordinated expenditures, as well as a separate, segregated account that may accept unlimited funds for other independent election-related activities such as get-out-the-vote drives).

The plaintiff in *Carey v. FEC*, 791 F. Supp. 2d at 125, 131, was a political committee that wished to establish "two distinct pools of funds segregated by maintaining separate banking accounts": one fund to be used exclusively for independent expenditures, and the other for contributions to candidates. This Court held, "[M]aintaining two separate accounts is a perfectly legitimate and narrowly tailored means to ensure no cross-over" between the IE-only funds and the funds for campaign contributions. *Id.* at 131. It concluded that applying federal contribution limits to the PAC's IE-only account would irreparably violate the PAC's fundamental constitutional rights, *id.* at 134, explaining,

> As long as Plaintiff[] strictly segregate[s] these funds and maintain[s] the statutory limits on soliciting and spending hard money, [it is] free to seek and expend unlimited . . . funds geared toward independent expenditures. Because neither contribution nor expenditure limitations involving independent expenditure activities are constitutional under the First Amendment, the [FEC] cannot prevail.

Id. at 135.

Other courts have reached the same conclusion. In *Republican Party v. King*, 741 F.3d 1089, 1097 (10th Cir. 2013), for example, the Tenth Circuit agreed that a political committee had

the fundamental First Amendment right to both contribute to candidates from a "hard money" account subject to contribution limits, while making independent expenditures from a separate segregated account that could accept unlimited contributions. The court explained, "[N]o anti-corruption interest is furthered as long as [the political committee] maintains an [IE-only] account segregated from its candidate contributions" and "adheres to contribution limits for donations to its candidate account." *Id.* The court explained that, because the committee's contributions to candidates from its "hard money" account "do[] not alter the uncoordinated nature of its independent expenditures," such independent expenditures cannot give rise to actual or apparent corruption, and therefore may not be limited. *Id.* at 1101; *see also Thalheimer*, 2012 U.S. Dist. LEXIS 6563, at *38-39 (enjoining limit on contributions to political committees that make independent expenditures, "regardless of whether independent expenditures are the only expenditures that those committees make").

The D.C. Circuit embraced similar reasoning in *Emily's List v. FEC*, 581 F.3d 1 (D.C. Cir. 2009), in which it held:

> A non-profit that makes [independent] expenditures to support federal candidates does not suddenly forfeit its First Amendment rights when it decides also to make direct contributions to parties or candidates. Rather, it simply must ensure, to avoid circumvention of individual contribution limits by its donors, that its contributions to parties or candidates come from a hard-money account. . . . [that is subject to limits on contributions].

Id. at 12. Although *Emily's List* dealt with general "advertisements, get-out-the-vote efforts, and voter registration drives," *id.*, its reasoning applies equally to permit entities to establish separate accounts for candidate contributions (for which contributions may be limited) and for truly independent expenditures of any nature (for which contributions may not be limited)—as this Court correctly concluded in *Carey*, 791 F. Supp. 2d at 125, 131.

C. Political Parties Are Able to Act Independently of Candidates and Make Truly Independent Expenditures

Political parties have the same First Amendment rights, including the right to engage in unlimited independent expenditures, as other individuals and groups. *First Nat'l Bank v. Bellotti*, 435 U.S. 765, 777, 784 (1978). The Supreme Court has recognized that "the practice of persons sharing common views banding together to achieve a common end is deeply embedded in the American political process." *Citizens Against Rent Cont.*, 454 U.S. at 294. Political parties may be considered modern-day variations of "[t]he 18th-century Committees of Correspondence. . . . [Their] value is that by collective action individuals can make their views known, when, individually, their voices would be faint or lost." *Id.*; *see also Randall v. Sorrell*, 548 U.S. 230, 256 (2006) ("[T]he right to associate in a political party" is "a particularly important political right.").

The Supreme Court has already refused to "assume" that a political party's expenditures are coordinated with the candidates it supports, or that "a party and its candidate[s] are identical." *Colorado I*, 518 U.S. at 622. Rather, a political party, no less than any other political committee, may engage in truly independent expenditures that are not deemed coordinated with its candidates and may not be treated as contributions to those candidates. *Id.* at 614 (holding that the expenditure at issue by a state political party committee must be treated, "for constitutional purposes, as an 'independent expenditure,'" rather than "an indirect campaign contribution" or coordinated expenditure).

Independent expenditures by political parties play a fundamental role in American political discourse:

> A political party's independent expression not only reflects its members' views about the philosophical and governmental matters that bind them together, it also seeks to convince others to join those members in a practical democratic task, the

> task of creating a government that voters can instruct and hold responsible for subsequent success or failure.

Id. at 615-16. Thus, "[t]he independent expression of a political party's views is 'core' First Amendment activity" entitled to full constitutional protection. *Id.* at 616.

The Government does not have a legitimate interest in restricting this constitutionally protected activity. A political party's independent expenditures do not involve actual or apparent corruption because, as with independent expenditures by other entities, "'the absence of prearrangement and coordination'" between a party and a candidate concerning such expenditures "helps to 'alleviate,' any danger that a candidate will understand the expenditure[s] as an effort to obtain a 'quid pro quo.'" *Id.* (quoting *NCPAC*, 470 U.S. at 498). And no "special dangers of corruption associated with political parties . . . tip the constitutional balance in a different direction." *Id.* Even if political parties' expenditures "influence the outcome of the vote . . . . the fact that advocacy may persuade the electorate is hardly a reason to suppress it." *Bellotti*, 435 U.S. at 790.

Political parties' independent expenditures also do not create a risk of allowing people to circumvent limits on contributions to candidates, because contributors seeking to exceed such limits could simply make such independent expenditures themselves. *Colorado I*, 518 U.S. at 617. Indeed, having individuals subsidize political parties' independent expenditures may help prevent corruption because, as the *Colorado I* Court explained, "an independent expenditure made possible by a $20,000 donation, but controlled and directed by a party rather than the donor, would seem less likely to corrupt than the same (or a much larger) independent expenditure made directly by that donor." *Id.* In sum, the Supreme Court treats independent expenditures by political parties the same as such expenditures by any other person or entity; parties have a fundamental constitutional right to engage in such expenditures without limit.

D. Political Committees Have the First Amendment Right to Establish Independent Expenditure-Only Accounts to Accept Unlimited Contributions to Fund Their Pure Speech

Thus, this Court already has held that the First Amendment protects the right of non-party political committees to set up two separate accounts: one account to fund political contributions, to which people may contribute up to federal limits, and a separate, segregated account to fund independent expenditures, to which people may make unlimited contributions. *Carey v. FEC*, 791 F. Supp. 2d 121, 126-27, 131 (D.D.C. 2011); *see also Emily's List v. FEC*, 581 F.3d 1 (D.C. Cir. 2009). And the Supreme Court has held that political party committees have the same ability and fundamental right to engage in independent expenditures as other people and entities, and that the amount of such expenditures may not be limited. *Colorado I*, 518 U.S. at 614, 622. Thus, this Court should hold that the First Amendment permits political party committees to establish separate, segregated funds solely for the purpose of making independent expenditures, and allow such IE-only funds to accept unlimited contributions. Political party committees would not be permitted to make any campaign contributions (including coordinated expenditures, *see* 2 U.S.C. § 441a(a)(7)(C)) from their IE-only accounts, and their traditional "hard money" accounts still would be subject to federal contribution limits.

Independent expenditures do not lead to actual or apparent corruption or allow circumvention of other contribution limits, and therefore may not be limited. *Buckley*, 424 U.S. at 45, 47; *NCPAC*, 470 U.S. at 498; *Citizens United*, 558 U.S. at 357. Independent expenditures by political parties raise no greater risk of corruption or circumvention than other such expenditures and, therefore, also may not be limited. *Colorado I*, 518 U.S. at 618 (holding that a "Constitution that grants to individuals, candidates, and ordinary political committees the right to make unlimited independent expenditures could [not] deny the same right to political parties").

Since independent expenditures are constitutionally innocuous, the Government has no legitimate grounds for seeking to limit contributions made for the exclusive purpose of funding such expenditures. *SpeechNow.org*, 599 F.3d at 689 (en banc); *Emily's List*, 581 F.3d at 15; *King*, 741 F.3d at 1096-97. Political parties therefore should be able to accept unlimited contributions to segregated IE-only accounts.

The Court has held that campaign finance restrictions, including limits on contributions to political parties, are constitutional only when they are "closely drawn" to combating actual or apparent *quid pro quo* corruption, or preventing circumvention of other constitutionally permissible limits. *Buckley*, 424 U.S. at 25; *McCutcheon*, 134 S. Ct. at 1444-46; *Emily's List*, 581 F.3d at 15. Preventing political party committees from establishing separate, segregated IE-only accounts that may accept unlimited contributions for the sole purpose of engaging in independent expenditures is not a closely drawn means of achieving any of those goals.

1. Prohibiting political parties from establishing segregated IE-only accounts is not a closely drawn means of combating actual or apparent *quid pro quo* corruption or preventing improper circumvention

Barring political parties from establishing segregated IE-only accounts that may accept unlimited contributions is not a closely tailored means of preventing *quid pro quo* corruption or its appearance. Independent expenditures by political committees do not raise the threat of such corruption due to the "absence of prearrangement and coordination . . . with the candidate or his agent." *Buckley*, 424 U.S. at 47; *NCPAC*, 470 U.S. at 498; *Colorado I*, 518 U.S. at 616; *Citizens United*, 558 U.S. at 357. And "[t]here is no difference in principle . . . between banning an organization . . . from engaging in advocacy [through independent expenditures] and banning it from seeking funds to engage in that advocacy." *Texans for Free Enter.*, 732 F.3d at 538. Since independent expenditures lead to neither actual nor apparent corruption, contributions to the

LNCC or LPIN for the sole purpose of funding such independent expenditures pose no such risks, either. *SpeechNow.org*, 599 F.3d at 694-95; *Wis. Right to Life State PAC*, 664 F.3d at 153-54 ("[A]fter *Citizens United* there is no valid governmental interest sufficient to justify imposing limits on fundraising by independent-expenditure organizations."); *Mich. Chamber of Comm. v. Land*, 725 F. Supp. 2d 665, 696 (W.D. Mich. 2010).

Prohibiting political party committees from establishing segregated IE-only accounts that may accept unlimited contributions likewise is unnecessary to prevent circumvention of other contribution limits. As with other so-called "hybrid" entities that use dual accounts, political parties' maintenance of "two separate accounts is a perfectly legitimate and narrowly tailored means to ensure no cross-over between [IE-only funds] and hard money." *Carey*, 791 F. Supp. 2d at 131-132. Like a "non-profit that makes expenditures to support federal candidates," a political party "does not suddenly forfeit its First Amendment rights when it decides to [also] make direct contributions to parties or candidates. Rather, it simply must ensure, to avoid circumvention of individual contribution limits by its donors, that its contributions to parties or candidates come from a hard-money account" subject to contribution limits. *Emily's List*, 581 F.3d at 12; *accord Thalheimer*, 2012 U.S. Dist. LEXIS 6563, at *39-40; *King*, 741 F.3d at 1097 (holding that contribution limits are unconstitutional as applied to a political committee's segregated IE-only fund because "no anti-corruption interest is furthered" by limiting contributions to that fund as long as it is "segregated from [the committee's] candidate contributions"). In other words, as long as a political party's IE-only committee "does not pass along the donors' funds to candidates or coordinate with candidates in making expenditures, there is no possibility that unlimited contributions for independent expenditures will enable donors to skirt otherwise valid contribution limits." *King*, 741 F.3d at 1102.

As with freestanding IE-only committees, the LNCC's and LPIN's IE-only committees will not operate "as middlemen through which funds merely pass from donors to candidates. They [will] not coordinate or prearrange their independent expenditures with candidates, and they [will] not take direction from candidates on how their dollars will be spent." *Long Beach Area Chamber of Comm.*, 603 F.3d at 696; *see also Leake*, 525 F.3d at 295 (recognizing that IE-only committees "do not even coordinate their messages with candidates"); *see* Drexler Decl. ¶¶ 10-11, 15; McMahon Decl. ¶¶ 6-7, 11. Thus, the LNCC and LPIN should each be permitted to establish a special, segregated IE-only account that may accept unlimited contributions for the sole purpose of making independent expenditures.

2. *McConnell* does not bar political party committees from establishing separate, segregated IE-only accounts to accept unlimited contributions

Neither the Supreme Court's ruling in *McConnell v. FEC*, 540 U.S. 93, 141 (2003), nor its reaffirmance of that ruling in *RNC v. FEC*, 698 F. Supp. 2d 150 (D.D.C. 2010), *aff'd without opinion* 130 S. Ct. 3543 (2010), undermines the First Amendment right of political parties to establish segregated IE-only accounts which may accept unlimited expenditures. The *McConnell* Court, in reasoning reaffirmed in *RNC*, 698 F. Supp. 2d at 158-59, held that limitations on a person's so-called "soft money" contributions to a political party committee are permissible because they "have only a marginal impact on political speech." *McConnell*, 540 U.S. at 140.

McConnell further held that limits on soft-money contributions help prevent both corruption and the appearance of corruption, because the Government may seek to eliminate not only "cash-for-votes exchanges," but also other types of "improper influence and opportunities for abuse ***in addition to*** quid pro quo arrangements." *Id.* at 143 (emphasis added and quotation marks omitted); *see also id.* (holding that the Government has a valid interest in preventing both

"bribery of public officials," as well as "the broader threat from politicians too compliant with the wishes of large contributors") (quotation marks omitted). The need to prevent contributors from "gaining influence," and candidates from becoming "indebted," warranted restrictions on contributions to both national and state parties. *Id.* at 165.

Many courts, relying on *McConnell*, have opined that contributions to political parties raise greater corruption-related concerns than contributions to other types of IE-only or "hybrid" committees because of the "'close relationship'" between political parties and their candidates. *E.g.*, *Emily's List*, 581 F.3d at 13 (quoting *McConnell*, 540 U.S. at 154-55); *RNC*, 698 F. Supp. 2d at 159; *see also Leake*, 525 F.3d at 293 (noting that political parties "'have special access to and relationships with' those who hold public office") (quoting *McConnell*, 540 U.S. at 188); *Carey*, 791 F. Supp. 2d at 131 ("[N]on-connected non-profits are not the same as political parties and do not cause the same concerns of quid pro quo money-for-access"). In *RNC*, this Court elaborated:

> [F]ederal officeholders and candidates may value contributions to their national parties—regardless of how those contributions ultimately may be used—in much the same way they value contributions to their own campaigns. As a result, the reasoning goes, contributions to national parties have much the same tendency as contributions to federal candidates to result in quid pro quo corruption or at least the appearance of quid pro quo corruption.

RNC, 698 F. Supp. 2d at 159; *see also King*, 741 F.3d at 1098.

Finally, *McConnell* held that limiting soft-money contributions to state and local parties furthers the Government's interest in preventing circumvention of other contribution limits. *McConnell*, 540 U.S. at 161. "Preventing corrupting activity from shifting wholesale to state committees and thereby eviscerating FECA clearly qualifies as an important governmental interest." *Id.* at 165-66.

Neither *McConnell* nor *RNC* govern this case, for several reasons.

First, the plaintiffs in *McConnell* and *RNC* brought broad facial challenges to the application of contribution limits to all soft money collected by political parties. The instant case, in contrast, is an as-applied challenge specifically focusing on the right of political party committees to create accounts solely for the purpose of engaging in independent expenditures. *Cf.* McConnell, 540 U.S. at 157 n.52, 159, 173 (recognizing the BCRA Compliance Requirements remain subject to as-applied constitutional challenges). Thus, while the restrictions at issue in *McConnell* entailed "only a marginal impact on political speech," *id.* at 140, this case involves restrictions on contributions made solely for the purpose of funding core political speech entitled to maximum First Amendment protection, *Colorado I*, 518 U.S. at 622 ("The independent expression of a political party's views is 'core' First Amendment activity.").

Indeed *McConnell* itself expressly recognized that the potential corrupting effect of soft-money contributions to political parties was "an entirely different question," arising from "an entirely different set of facts," from the potentially corrupting effect of political parties' independent expenditures. *McConnell*, 540 U.S. at 145 n.45. And *Citizens United*, 558 U.S. at 361, expressly held that *McConnell* was inapplicable on the grounds that *Citizens United*—like the instant case—was "about independent expenditures, not soft money."

The *Citizens United* Court noted:

> If elected officials succumb to improper influences ***from independent expenditures***; if they surrender their best judgment; and if they put expediency before principle, then surely there is cause for concern. . . . The remedies enacted by law, however, must comply with the First Amendment; and, it is our law and our tradition that ***more speech, not less, is the governing rule***.

Id. at 361 (emphasis added). Clamping down on political parties' independent expenditures, or their ability to raise funds to pay for them, is not a constitutionally appropriate response to potential corruption-related concerns.

Second, the fundamental premise of *McConnell* and *RNC*—that candidates may view contributions to political party committees as being just as valuable to their campaigns as direct contributions, *see RNC*, 698 F. Supp. 2d at 159—is flatly inapplicable where a contribution is made for the exclusive purpose of funding independent expenditures. The Supreme Court has categorically held that, even when they originate from political party committees, *see Colorado I*, 518 U.S. at 616, independent expenditures do not give rise to actual or apparent *quid pro quo* corruption, *id.*; *accord NCPAC*, 470 U.S. at 498; *Citizens United*, 558 U.S. at 345; *McCutcheon*, 134 S. Ct. at 1452 ("[T]here is not the same risk of quid pro quo corruption or its appearance when money flows through independent actors to a candidate, as when a donor contributes to a candidate directly."). As noted earlier, the "absence of prearrangement and coordination of an [independent] expenditure with [a] candidate . . . undermines the value of the expenditure to the candidate, [and] . . . alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate." *Buckley*, 424 U.S. at 47; *accord NCPAC*, 470 U.S. at 498; *Colorado I*, 518 U.S. at 616; *Citizens United*, 558 U.S. at 357.

Thus, while the voter registration, get-out-the-vote, and other activities funded by the soft-money contributions at issue in *McConnell* and *RNC* reasonably might have been seen as part of potential *quid pro quo* transactions—since there was no assurance that such activities were not coordinated with candidates—a true independent expenditure by a political party, by definition, cannot be part of a potentially corrupt exchange. *Cf. Speechnow.org*, 599 F.3d at 695 ("[T]he government has no anti-corruption interest in limiting contributions to an independent expenditure group."). Since the "close relationship" between federal officeholders and political parties, *McConnell*, 540 U.S. at 154-55, does not preclude parties from being able to make truly

independent expenditures without raising corruption concerns, *Colorado I*, 518 U.S. at 615-17, it should not bar them from establishing separate segregated accounts to pay for such expenditures.

Third, *McConnell* was based on the additional premise that all large contributions to political party committees are "suspect" because they "create actual or apparent indebtedness on the part of federal officeholders," and historically have led national party committees to grant contributors "[a]ccess to federal officeholders." *McConnell*, 540 U.S. at 155-56. In *Citizens United*, 558 U.S. at 359, and *McCutcheon*, 134 S. Ct. at 1441, however, the Court rejected this wide-ranging conception of corruption. Those cases clarified that the Government's interest "in preventing corruption or the appearance of corruption . . . [i]s limited to quid pro quo corruption." *Citizens United*, 558 U.S. at 359; *accord McCutcheon*, 134 S. Ct. at 1441, 1450-51.

The Court explained that the Government ***does not*** have a valid interest in limiting mere "influence over or access to elected officials," because "[i]ngratiation and access . . . are not corruption." *Citizens United*, 558 U.S. at 359-60. Put differently, "government regulation may not target the general gratitude a candidate may feel toward those who support him or his allies." *McCutcheon*, 134 S. Ct. at 1441, 1451. "Nor does the possibility that an individual who spends large sums may garner influence over or access to elected officials ***or political parties***" give rise to corruption. *Id.* at 1451 (quotation marks omitted and emphasis added). Thus, *McConnell*'s generalized suspicion of large contributions to political parties is inconsistent with the Supreme Court's current conception of corruption as "the financial *quid pro quo*: dollars for political favors." *NCPAC*, 470 U.S. at 497; *see RNC*, 698 F. Supp. 2d at 158 ("To the extent the FEC argues that large contributions to the national parties are corrupting and can be limited because they create gratitude, facilitate access, or generate influence, *Citizens United* makes clear that those theories are not viable.").

Finally, unlike what might have been possible with general contributions to a party's soft-money account, a contributor cannot use contributions to a political party committee's segregated IE-only account to circumvent base limits on contributions to a candidate. As long as the IE-only account "does not pass along the donors' funds to candidates or coordinate with candidates in making expenditures, there is no possibility that unlimited contributions for independent expenditures will enable donors to skirt otherwise valid contribution limits." *King*, 741 F.3d at 1102; *see also Thalheimer*, 2012 U.S. Dist. LEXIS 6563, at *38-39.

The LNCC and LPIN will go well beyond merely maintaining a separate IE-only account, however, by ensuring that the personnel responsible for making independent expenditures are entirely insulated from those who make decisions concerning contributions to federal candidates coordinated expenditures. Drexler Decl. ¶¶ 14-15; McMahon Decl. ¶¶ 10-11. The IE-only account will be subject to strict safeguards concerning fundraising to ensure that no candidates are involved, either through direct solicitations or fundraising events or indirectly, through joint fundraising committees. Drexler Decl. ¶ 17; McMahon Decl. ¶ 13. Contributions will not be "tallied" in any way to ensure that particular candidates receive "credit," and contributors will neither be given special access to any candidates nor even identified to candidates. Drexler Decl. ¶¶ 16, 18; McMahon Decl. ¶¶ 12, 14. *Cf. Stop This Insanity v. FEC*, 902 F. Supp. 2d 23, 40 (D.D.C. 2012) (holding that the mere creation of a segregated account, in itself, is not sufficient to ensure the "independence" of a "PAC's hybrid spending"). In short, the LNCC's and LPIN's intended IE-only accounts are sufficiently insulated to allow for truly independent expenditures, which are "'core' First Amendment activity." *Colorado I*, 518 U.S. at 616.

Thus, political party committees such as the LNCC and the LPIN should have the same right to establish segregated IE-only funds, accept unlimited contributions to such funds, and pay for independent expenditures from such accounts, as other political committees. *See Carey*, 791 F. Supp. 2d 121.

E. Even if BCRA's Restrictions May Constitutionally Be Applied to Political Parties in General, They May Not Be Applied to Third or Minor Parties

Even if this Court concludes that the risk of corruption or circumvention is sufficient to prohibit major political parties from establishing IE-only accounts that may accept unlimited contributions, there is no constitutionally sufficient basis for applying BCRA's Contribution Limits and Compliance Requirements to IE-only accounts by third or minor parties. "The Government's interest in deterring the 'buying' of elections and the undue influence of large contributors on officeholders . . . may be reduced where contributions to a minor party or an independent candidate are concerned, for it is less likely that the candidate will be victorious." *Buckley*, 424 U.S. at 70.

In *Buckley*, 424 U.S. at 33-35 & n.40, the minor party plaintiffs had failed to establish that applying contribution limits to their candidates would have "a serious effect on the initiation and scope of minor-party and independent candidacies." *McConnell* went on to recognize that a minor party may bring "an as-applied challenge" to BCRA restrictions that prevent it from "'amassing the resources necessary for effective advocacy." 540 U.S. at 159 (quoting *Buckley*, 424 U.S. at 21).

Minor or third parties, by definition, lack the number of supporters that major parties enjoy to help them propagate their message. Until such parties can spread their message widely and cultivate broader public support, they are limited to a fairly small base of realistic potential

donors to fund their political expression. Limiting the amount that any such donor may contribute to a minor party for the sole purpose of subsidizing its independent expenditures therefore imposes a much greater practical burden on the minor party's exercise of its "core" First Amendment right to engage in such pure expression, *cf. Colorado I*, 518 U.S. at 616, than on the major parties, which can draw upon massive donor bases. Prohibiting third parties from establishing segregated IE-only accounts that may accept unlimited contributions also makes it more difficult for them to convey their message to the public and develop additional supporters and contributors, thereby perpetuating their relegation to minor-party status.

In this case, the LNCC and LPIN can point to specific transactions that BCRA is preventing, thereby interfering with their ability to exercise their fundamental right to engage in independent expenditures. Declaration of Chris Rufer, ¶¶ 6-7; Drexler Decl. ¶¶ 10, 20, 25; McMahon Decl. ¶¶ 6, 16, 19. Thus, this Court should hold, at the very least, that 2 U.S.C. §§ 441a(a)(1)(B), (D), and 441i(a)-(c) are unconstitutional as applied to segregated IE-only accounts of minor or third parties such as LNCC and LPIN.

F. Plaintiffs Satisfy the Other Requirements for a Preliminary Injunction

This Court should grant Plaintiffs' Motion for a preliminary injunction because LNCC, LPIN, and Rufer satisfy all four factors for relief. *See Winter v. NRDC*, 555 U.S. 7, 20 (2008). ***First***, for the reasons discussed above, *see supra* Sections A-D, Plaintiffs are likely to succeed on the merits of their as-applied constitutional challenges to 2 U.S.C. §§ 441a(a)(1)(B), (D), 441i(a)-(c), *see Winter*, 555 U.S. at 20.

Second, if this Court agrees that those provisions are unconstitutional as applied to the LNCC's and LPIN's intended segregated IE-only accounts which may accept unlimited contributions, as well as to Rufer's intended contributions in excess of federal limits to such

accounts, then the FEC's enforcement of such provisions irreparably harm Plaintiffs by abridging their fundamental First Amendment rights. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

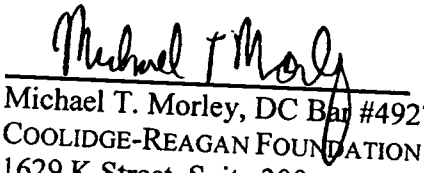
Third, the balance of hardships tilts sharply in favor of Plaintiffs, since "no substantial harm can be shown in the enjoinment of an unconstitutional policy." *Chabad of S. Ohio & Congregation Lubavitch v. City of Cincinnati*, 363 F.3d 427, 436 (6th Cir. 2004). ***Finally***, the public has a strong interest in the enforcement of fundamental First Amendment rights, and lacks any valid interest in the enforcement of unconstitutional provisions. "[E]nforcement of an unconstitutional law is always contrary to the public interest." *Gordon v. Holder*, 721 F.3d 638, 653 (D.C. Cir. 2013). Thus, Plaintiffs have satisfied the requirements for obtaining a preliminary injunction.

CONCLUSION

Based on the Supreme Court's rulings in *Colorado Republican Federal Campaign Comm. v. FEC*, 518 U.S. 604 (1996), and *Citizens United v. FEC*, 558 U.S. 310 (2010), as well as this jurisdiction's rulings in *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010) (en banc), *Emily's List v. FEC*, 581 F.3d 1 (D.C. Cir. 2009), and *Carey v. FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011), this Court should grant Plaintiff's Motion for a Preliminary Injunction and enjoin 2 U.S.C. § 441a(a)(1)(B) and (D)'s contribution limits, and 2 U.S.C. § 441i(a)-(c)'s additional

restrictions, as applied to segregated, independent expenditure-only accounts established by national and state political party committees.

Respectfully submitted,



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