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## The Failure of Louisiana Campaign Finance Law: A Case Study of BRNext and the 2004 Mayoral Election

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THE FAILURE OF LOUISIANA CAMPAIGN FINANCE LAW:  
A CASE STUDY OF BRNEXT AND THE 2004 BATON ROUGE MAYORAL ELECTION

A Thesis

Submitted to the Graduate Faculty of the  
Louisiana State University and  
Agricultural and Mechanical College  
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by  
Casey Elizabeth Rayborn  
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## ABSTRACT

This thesis is a case study in how weak campaign finance laws and government oversight can undermine democracy in a local election. It does so by demonstrating how Louisiana campaign finance law enabled one wealthy businessman to play a major role in a mayoral election under the auspices of an issue-based political action committee. Through the examination of the Louisiana PAC BRNext, its financial activities, and its relationships, this study suggests that BRNext and its founder Lane Grigsby were able to violate the spirit of the law in each of these areas. BRNext was able to take advantage of the loophole-ridden and vague Louisiana campaign finance law, opening the electoral process up to the possibility for corruption. After discussing how this mayoral election illustrates the failure of Louisiana's legal frameworks to achieve core goals of campaign finance law, this study makes suggestions for adapting policy by taking into account new political actors and new routes for spending.

## INTRODUCTION

The 2004 Baton Rouge mayoral race was entrenched in controversy across party and racial lines. Following the primary, Melvin “Kip” Holden (D), an African-American, and Bobby Simpson (R), the white incumbent mayor in a predominantly black city, faced each other in a runoff, a rematch of the 2000 mayoral election. This time, however, the local political action committee (PAC) BRNext was in Holden’s corner. On election day, in a landmark victory, Holden won with more than 55 percent of the vote, a jump up from the 43 percent he received in 2000.<sup>1</sup> And in unseating Simpson, Holden became the first African-American mayor of Baton Rouge.

What changed from the 2000 election? Researchers, journalists, and even the defeated Simpson all credited BRNext with making the difference. BRNext appeared after the general election, broadcasting a series of television advertisements and presenting itself as an issue-based group and a community coalition for change. Many of its initial advertisements supported this claim, focusing on general issues like crime and traffic. Closer to the run-off, however, the PAC began airing attack ads against Simpson. During and following the election, many people behind the scenes questioned the legitimacy of BRNext, its sources of funding, and its intentions.<sup>2</sup> A closer look at BRNext suggests that, rather than operating as a grassroots organization comprised of community members, it was actually a campaign waged and bankrolled by one man,

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<sup>1</sup> Scott Dyer, *Clean Campaign Vowed BRNext to Continue Ad Plan*, THE ADVOCATE, September 20, 2004.

<sup>2</sup> Interview with George Kennedy, Media Consultant, BRNext, in Baton Rouge, La. (April 22, 2005). Kennedy said, “Yeah, people were suspicious of BRNext. Louisiana blogs buzzed about Grigsby and who else was behind the group.”

Lane Grigsby, and his corporations—corporations whose business interests were affected considerably by those in office.

Did this landmark election reflect an open, fair, and equitable democracy at work or was it a reflection of money's corrupting power in politics? Was Grigsby exercising his right to free speech or was he using his corporate wealth to dominate the political discourse in the 2004 mayor's race? Evidence suggests the latter.

To determine whether money has a corrupting influence on politics and whether campaign finance laws are beneficial, scholars have conducted broad quantitative studies.<sup>3</sup> These studies focus primarily on the use of money in congressional elections,<sup>4</sup> voter turnout in relation to campaign spending,<sup>5</sup> and public funding of electoral campaigns.<sup>6</sup> In terms of qualitative analysis there is no shortage of anecdotal case studies, however, there are very few qualitative case studies in terms of systematic academic studies.<sup>7</sup> Such case studies offer an opportunity for in-depth examination of

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<sup>3</sup> DAVID W. ADAMANY & GEORGE E. AGREE, *POLITICAL MONEY: A STRATEGY FOR CAMPAIGN FINANCING IN AMERICA* (1975); Ruth Jones, *State Public Campaign Finance: Implications for Partisan Politics*, 25 *AMERICAN JOURNAL OF POLITICAL SCIENCE* 342 (1981); Karen J. Fling, *The State as Laboratories of Reform*. In *POLITICAL FINANCE* 245 (Herbert E. Alexander ed., 1979); Ruth S. Jones, *Financing State Elections*, in *MONEY AND POLITICS IN THE UNITED STATES* 172 (Michael J. Malbin ed., 1984); David C. Nice, *Political Equality and Campaign Finance in the American States*, 65 *SOCIAL SCIENCE QUARTERLY* 183 (1984).

<sup>4</sup> Karen J. Fling, *The State as Laboratories of Reform*. In *POLITICAL FINANCE* 245 (Herbert E. Alexander ed., 1979); Ruth S. Jones, *Financing State Elections*, in *MONEY AND POLITICS IN THE UNITED STATES* 172 (Michael J. Malbin ed., 1984); David C. Nice, *Political Equality and Campaign Finance in the American States*, 65 *SOCIAL SCIENCE QUARTERLY* 183 (1984). GARY C. JACOBSON, *MONEY IN CONGRESSIONAL ELECTIONS* (1980); Stanton A. Glantz, Alan I. Abramowitz, & Michael P. Burkart, *Election Outcomes: Whose Money Matters?*, 38 *JOURNAL OF POLITICS* 1033 (1976).

<sup>5</sup> Samuel C. Patterson & Gregory A. Caldeira, *Getting out the vote: participation in Gubernatorial Elections*, 77 *AMERICAN POLITICAL SCIENCE REVIEW* 675 (1983).

<sup>6</sup> DAVID W. ADAMANY & GEORGE E. AGREE, *POLITICAL MONEY: A STRATEGY FOR CAMPAIGN FINANCING IN AMERICA* (1975); Ruth Jones, *State Public Campaign Finance: Implications for Partisan Politics*, 25 *AMERICAN JOURNAL OF POLITICAL SCIENCE* 342 (1981).

<sup>7</sup> Robert J. Huckshorn, *Who Gave it? Who Got It?: The Enforcement of Campaign Finance Laws in the States*, 47 *JOURNAL OF POLITICS* 773 (1985); GARY C. JACOBSON, *MONEY IN CONGRESSIONAL ELECTIONS* (1980); Stanton

the competing constitutional interests of political speech and the political integrity of the electoral process. Political speech as a First Amendment right has been examined in terms of federal law quite a bit.<sup>8</sup> Little has been done in terms of examining this speech on the state level, and even less has been done on the local level.<sup>9</sup> This study looks at the financial hijacking of the 2004 Baton Rouge mayoral race under current Louisiana campaign finance law. The purpose of this study is to address the appearance of corruption on the state and local level, and suggest that this advances the current argument for campaign finance reform. It does so through analysis of state and federal law; examination of campaign finance records; and in-depth interviews with BRNext founder Lane Grigsby, media consultant George Kennedy, fundraiser Chris Hicks, and former Deputy General Counsel of the Louisiana Ethics Board Maris Leblanc.

Chapter 1 discusses the current debate surrounding campaign finance reform and pertinent court rulings, and explains the direction of this study. Chapter 2 defines key terminology, gives a brief history of campaign finance reform, and explains current

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A. Glantz, Alan I. Abramowitz, & Michael P. Burkart, *Election Outcomes: Whose Money Matters?*, 38 JOURNAL OF POLITICS 1033 (1976).

<sup>8</sup> William F. Buckley, Jr., *About Nikpak*, NATIONAL REVIEW (May 15, 1981); Charles T. McConville, *Muzzling the Mouthless Speaker: The Reform Community's Prescription for "Corporate Domination" in State Issue Campaigns*, 35 CAPITAL UNIVERSITY LAW REVIEW 245 (2006); Lillian R. BeVier, *Money and Politics: A Perspective on the First Amendment and Campaign Finance Reform*, 69 CALIFORNIA LAW REVIEW 1045 (July, 1985); Andrew Stark, *Strange Bedfellows: Two Paradoxes in Constitutional Discourse Over Corporate and Individual Political Activity*, 14 CARDOZA LAW REVIEW 1343 (April, 1993).

<sup>9</sup> Margery M. Ambrosius, *The Role of Occupational Interest Groups in State Economic Development Policy-Making*, 42 WESTERN POLITICAL QUARTERLY 53 (1989); VIRGINIA GRAY & DAVID LOWERY, *THE POLITICAL ECOLOGY OF INTEREST REPRESENTATION: LOBBYING COMMUNITIES IN THE AMERICAN STATES* (1996); RONALD J. HERBENAR & CLIVE S. THOMAS, *INTEREST GROUP POLITICS IN THE SOUTHERN STATES* (1992); Kenneth G. Hunter, Laura Ann Wilson & Gregory Brunk, *Societal Complexity and Interest Group Lobbying in the American States*, 53 JOURNAL OF POLITICS 488 (1991); ALAN ROSENTHAL, *THE THIRD HOUSE: LOBBYISTS AND LOBBYING IN THE STATES* (2001).



Louisiana campaign finance law. Chapter 3 gives a detailed account of BRNext's role in the 2004 mayoral race. Chapter 4 outlines key research findings, discusses their implications for democracy, and makes suggestions for campaign finance policy reform. Finally, Chapter 4 concludes with a discussion of the impact that cases like BRNext have on democracy and the importance of additional reform.

## TWO COMPETING CONSTITUTIONAL INTERESTS

### Free Speech v. Political Integrity of the Electoral Process

The introduction of campaign finance law incited the battle between two competing constitutional interests: freedom of speech and the preservation of a healthy democracy. Since the Tillman Act of 1907<sup>10</sup> attempted to curtail corporate capital's influence on politics, Congress, the Supreme Court, and state legislatures have debated whether spending money in a campaign is political speech that should be protected or whether it corrupts the political process by allowing those with wealth to unfairly influence elections and, ultimately, government policy. On one side, there are those who argue that campaign finance restrictions, such as bans on corporate contributions, are a violation of the First Amendment right to free speech.<sup>11</sup> On the other side, those in favor of greater restriction seek to protect the political integrity of the electoral process from what they believe to be the corrupting influence of money.

Those against additional campaign finance restrictions argue that because money is a means to participate in political speech, campaign contributions and expenditures are entitled to constitutional protection under the First Amendment.<sup>12</sup> The notion of money as speech by proxy can be traced back to the Supreme Court's 1976 landmark

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<sup>10</sup> Tillman Act of 1907, 34 Stat. 864.

<sup>11</sup> J. Tobin Grant & Thomas J. Rudolph, *Value Conflict, Group Affect, and the Issue of Campaign Finance*, 47 AMERICAN JOURNAL OF POLITICAL SCIENCE 453 (July 2003).

<sup>12</sup> Mitch McConnell, *In Defense of Soft Money*, NEW YORK TIMES, April 1, 2001; Bradley A. Smith, *Money Talks: Speech, Corruption, Equality, and Campaign Finance*, 86 GEORGETOWN LAW JOURNAL 45 (1997); Bradley A. Smith, *Soft Money, Hard Realities: The Constitutional Prohibition of a Soft Money Ban*, 179 JOURNAL OF LEGISLATION 179 (1998); Bradley A. Smith, *The Sirens' Song: Campaign Finance Regulation and the First Amendment*, 6 JOURNAL OF LAW AND POLICY 1 (1999); BRADLEY A. SMITH, UNFREE SPEECH: THE FOLLY OF CAMPAIGN FINANCE REFORM (2001).

decision in *Buckley v. Valeo*, in which the court struck down FECA's limits on campaign expenditures. The Court asserted that "[a] restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression...because virtually every means of communicating ideas in today's mass society requires the expenditure of money."<sup>13</sup> Along the same sentiment, the ACLU deemed the Bipartisan Campaign Reform Act of 2002, a law that was designed to close existing contribution loopholes, as "a recipe for political repression because it egregiously violates longstanding free speech rights..."<sup>14</sup> And when the U.S. Supreme Court upheld the key provisions of BCRA, Justice Antonin Scalia declared it "a sad day for freedom of speech" in his dissenting opinion, and added: "Who could have imagined the court would smile with favor upon a law that cuts to the heart of what the First Amendment is meant to protect: The right to criticize the government."<sup>15</sup>

Advocates of more stringent campaign finance regulation posit two primary arguments: The first is that the undue influence of money undermines political equality by allowing the wealthy to dominate political debate and creates a situation that can foster quid pro quo political corruption. Second, these advocates argue that this undermining of political debate and political integrity, creates an atmosphere of public cynicism and voter apathy.<sup>16</sup> In *Checkbook Democracy: How Money Corrupts Political*

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<sup>13</sup> *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976).

<sup>14</sup> Laura Murphy & Joel Gora, CONGRESSIONAL RECORD S3135, March 29, 2001.

<sup>15</sup> *McConnell v. Federal Election Com'n*, 540 U.S. 93, 124 S. Ct. 619 (2003). In dissenting opinion.

<sup>16</sup> DAVID W. ADAMANY & GEORGE E. AGREE, *POLITICAL MONEY* (1975); OWEN M. FISS, *THE IRONY OF FREE SPEECH* (1996); Edward Foley, *Equal-Dollars-per-Voter: A Constitutional Principle of Campaign Finance*, 94 COLUMBIA LAW REVIEW 1204 (1994); Richard L. Hasen, *Clipping Coupons for Democracy: An Egalitarian/Public Choice Defense of Campaign Finance Vouchers*, 84 CALIFORNIA LAW REVIEW 1 (1996),

*Campaigns*, Darrell West argues that due to a rise in independent expenditures, election costs, issue advocacy, and candidates' dependence on third-parties, elections no longer stimulate debate over ideas and policies, but instead, have degenerated into contests in which candidates try to raise more and more money.<sup>17</sup> The overall argument here is that if a minority of wealthy individuals dominates the political discourse, that discourse will only reflect the interests of that elite group.

In addition to stifling debate, proponents of stringent campaign finance law argue that economic inequalities pose a serious threat to political egalitarianism by giving big corporations and wealthy individuals a disproportionate share of influence in politics.<sup>18</sup> These reform proponents argue that campaign contributions often translate into access to politicians or legislative action.<sup>19</sup> Jamin Raskin, Associate Professor of Law at The American University, summed up this argument when he said, "Political corruption in America today does not consist simply of quid pro quo relationships

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Richard L. Hasen, *Campaign Finance Laws and the Rupert Murdoch Problem*, 77 TEXAS LAW REVIEW 1627 (1999); Burt Neuborne, *Is Money Different?*, 77 TEXAS LAW REVIEW 1609 (1999); Burt Neuborne, *Toward a Democracy-Centered Reading of the First Amendment*, 93 NORTHWESTERN UNIVERSITY LAW REVIEW 1055 (1999); Jamin Raskin & Jon Bonifaz, *Equal Protection and the Wealth Primary*, 11 YALE LAW AND POLICY REVIEW 273 (1993); Cass R. Sunstein, *Political Equality and Unintended Consequences*, 94 COLUMBIA LAW REVIEW 1390 (1994); Fred Wertheimer & Susan Manes, *Campaign Finance Reform: A Key to Restoring the Health of Our Democracy*, 94 COLUMBIA LAW REVIEW 1126 (1994); DARRELL M. WEST, CHECKBOOK DEMOCRACY: HOW MONEY CORRUPTS POLITICAL CAMPAIGNS (2000).

<sup>17</sup> DARRELL M. WEST, CHECKBOOK DEMOCRACY: HOW MONEY CORRUPTS POLITICAL CAMPAIGNS (2000).

<sup>18</sup> OWEN M. FISS, THE IRONY OF FREE SPEECH (1996); Edward Foley, *Equal-Dollars-per-Voter: A Constitutional Principle of Campaign Finance*, 94 COLUMBIA LAW REVIEW 1204 (1994); Richard L. Hasen, *Clipping Coupons for Democracy: An Egalitarian/Public Choice Defense of Campaign Finance Vouchers*, 84 CALIFORNIA LAW REVIEW 1 (1996); Richard L. Hasen, *Campaign Finance Laws and the Rupert Murdoch Problem*, 77 TEXAS LAW REVIEW 1627 (1999); Burt Neuborne, *Is Money Different?*, 77 TEXAS LAW REVIEW 1609 (1999); Burt Neuborne, *Toward a Democracy-Centered Reading of the First Amendment*, 93 NORTHWESTERN UNIVERSITY LAW REVIEW 1055 (1999); Jamin Raskin & Jon Bonifaz, *Equal Protection and the Wealthy Primary*, 11 YALE LAW AND POLICY REVIEW 273 (1993); Cass R. Sunstein, *Political Equality and Unintended Consequences*, 94 COLUMBIA REVIEW 1390 (1994); Fred Wertheimer & Susan Manes, *Campaign Finance Reform: A Key to Restoring the Health of Our Democracy*, 94 COLUMBIA LAW REVIEW 1126 (1994).

<sup>19</sup> *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976) at 26-27.

between special interests and elected officials. It involves a massive structural bias in government favoring the parochial interests of corporate and personal wealth over the interests of those citizens lacking access to such wealth.”<sup>20</sup> He argues that economic elites hide behind the First Amendment as a way to ensure their freedom to continue buying elections.<sup>21</sup>

As a result of such corruption, these reform proponents argue that the general public has given up on the integrity of the system. They contend that this has translated into lower turnout rates and less overall political participation. Former Congressman Lee Hamilton, director of the Center on Congress at Indiana University, echoed this sentiment when he said, “The rising flood of money that flows into campaigns also undermines general public trust in the political system. Many Americans feel it is money, not ideas and not principles, that reigns supreme in our political system. I often heard people say that the political process was run by moneyed interests, so they saw little reason to vote.”<sup>22</sup>

## **The Courts’ Debate**

While the Supreme Court deems political speech at the core of the First Amendment, it too has been torn over the question of whether money, corporate or otherwise, equals protected speech. There are two outlooks reflected in the Court’s

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<sup>20</sup> Jamin Raskin, Associate Professor of Law at The American University, Letter to the BOSTON REVIEW (1993), <http://bostonreview.net/BR18.3/forum.html>. Commenting on Ellen Miller’s *Money, Politics and Democracy*.

<sup>21</sup> Id.

<sup>22</sup> Lee Hamilton, *The Money Chase*, The Center on Congress at Indiana University, October 3, 2005, [http://congress.indiana.edu/radiocommentaries/the\\_money\\_chase.php](http://congress.indiana.edu/radiocommentaries/the_money_chase.php)

decisions: that political speech should be protected at any cost and that some speech must be restricted to maintain and/or restore the integrity of the electoral process.

Throughout the 70s and early 80s, Court decisions emphasized the importance of the citizen's right to receive information in the marketplace of ideas, regardless of whether that information, or speech, comes from individuals or corporations. In *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.*,<sup>23</sup> the Court reasoned that "speech does not lose its First Amendment protection because money is spent to project it, as in a paid advertisement..."<sup>24</sup> The Court later reasoned that the free flow of information through advertising serves the First Amendment goal of enlightening public decision-making in a democratic society.<sup>25</sup> This is in line with Justice Brennan's 1965 argument that the best way to ascertain the truth is to have "uninhibited, robust, and wide-open" discussion, as in a "free marketplace of ideas."<sup>26</sup>

Two years after the *Virginia* ruling, the Court went beyond the protection of advertisements as a means to market products and specifically addressed the right of corporations to participate in political discourse. In *First National Bank of Boston v. Bellotti*,<sup>27</sup> the Court ruled that corporate "speech [is] indispensable to decision-making in a democracy, and this is no less true because the speech comes from a corporation rather than an individual."<sup>28</sup> The Court reaffirmed this decision in *Citizens Against Rent Control*

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<sup>23</sup> *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976).

<sup>24</sup> *Id.* at 762.

<sup>25</sup> *Id.* at 765.

<sup>26</sup> *Lamont v. Postmaster Gen.*, 381 U.S. 301, 308 (1965) in majority opinion.

<sup>27</sup> *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978).

<sup>28</sup> *Id.* at 777.

*v. City of Berkeley*<sup>29</sup> when it determined that “there is no significant state or public interest in curtailing debate and discussion of a ballot measure. Placing limits on contributions which in turn limit expenditures plainly impairs freedom of expression.”<sup>30</sup>

In the 90s, however, the Court began to show concern with the ability of corporate-level wealth to exert undue influence in the marketplace of ideas. In 1990, for example, the Court ruled in *Austin v. Michigan Chamber of Commerce*<sup>31</sup> that “[c]orporate wealth can unfairly influence elections when it is deployed in the form of independent expenditures, just as it can when it assumes the guise of political contributions... ‘The compelling governmental interest in preventing corruption support[s] the restriction of the influence of political war chests funneled through the corporate form.’”<sup>32</sup> The Court upheld Michigan’s efforts “aim[ed] at a different type of corruption in the political arena: the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public’s support for the corporation’s political ideas.”<sup>33</sup> This ruling was a significant shift from the argument in favor of corporate influence in the 70s and 80s and reflected the growing concern of money’s corrupting power in politics.

Despite the Court’s ruling in *Austin* upholding a state’s right to protect the electoral process from the corruption of corporate wealth, in 2000 the Court struck down a ban on corporate contributions in state ballot issue campaigns in *Montana Chamber of*

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<sup>29</sup> *Citizens Against Rent Control v. City of Berkeley*, 454 U.S. 290 (1981).

<sup>30</sup> *Id.* at 299.

<sup>31</sup> *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652 (1990).

<sup>32</sup> *Id.* at 659

<sup>33</sup> *Id.* at 654, 659-60.

*Commerce v. Argenbright*.<sup>34</sup> In its opinion, the Court reverted back to the decision in *Bellotti*, stating that it “is up to the voters to determine whether they approve or disapprove of a corporation’s point of view.”<sup>35</sup> Despite this ruling, FECA still currently prohibits corporate contributions on the federal level and 21 states presently have similar prohibitions on corporate contributions.<sup>36</sup>

As this chapter outlines, there is an ongoing battle in the federal and state legislatures, as well as in the courts, concerning whether restrictions on political speech are necessary to preserve meaningful democracy or whether they are a violation of the First Amendment. In 1976 the Supreme Court struck down parts of FECA as a violation of First Amendment rights in *Buckley v. Valeo*. The Court, however, upheld limits on individual contributions to candidates for Congress. The Court reasoned that this restriction would directly serve the government’s interest in preventing “corruption and the appearance of corruption.”<sup>37</sup> Since *Buckley*, the Supreme Court’s rulings on campaign finance law have hinged on concrete proof of campaign corruption or the appearance of corruption. This has set the standard, which requires that those seeking campaign finance reform provide proof of such corruption. The purpose of this study is to provide proof of such corruption in order to further the argument for additional campaign finance reform. Although proving definitive “corruption” is beyond the scope of this study, it *does* show the undue influence of money in politics, and how existing

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<sup>34</sup> *Montgomery Chamber of Commerce v. Argenbright*, 226 F.3d 1049, 1052--53 (9th Cir. 2000).

<sup>35</sup> *Citing Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, 661 (1990)) at 600.

<sup>36</sup> According to the Public Affairs Council at

<http://www.pac.org/page/ethics/StatesthatProhibitCorporateContributions.shtml>

<sup>37</sup> *Buckley v. Valeo*, 424 U.S. 1, 26 (1976).



legal frameworks give a disproportionate voice to the wealthy. In addition, it shows the “appearance of corruption,”<sup>38</sup> which the Court has ruled to be damaging to the electoral process, creating voter cynicism and apathy.

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<sup>38</sup> Id.

## THE CAMPAIGN FINANCE DEBATE

To understand the philosophical debate surrounding free political speech and political integrity of the electoral process, it is necessary to first understand current campaign finance laws, what they attempt to do, and how they attempt to do it. This chapter provides a brief overview of federal campaign finance legislation and defines key terminology. To give context to this case study, it also addresses how Louisiana campaign finance law differs from federal law.

### Key Components of Federal Campaign Finance Law

The struggle over campaign finance has long been a hallmark of American politics. Congress passed the Tillman Act of 1907<sup>39</sup> in its first attempt to curtail campaign contributions by corporations. Congress passed the Federal Election Campaign Act (FECA) of 1971<sup>40</sup> in an effort to gain control over the increasing influence of money in politics. Following the Watergate scandal and the rising costs of campaigns, Congress amended FECA in 1974<sup>41</sup> to protect against new avenues of corruption. As the first comprehensive attempt to regulate federal campaign financing, FECA consisted of the following elements:

**Oversight.** The Act established the Federal Election Commission (FEC) for the oversight and enforcement of campaign finance laws. The FEC is charged with

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<sup>39</sup> Tillman Act, 34 Stat. 864 (1907).

<sup>40</sup> Federal Election Campaign Act (FECA) of 1971, 2 U.S.C. 431-456 (2000).

<sup>41</sup> FECA Amendments of 1974, Pub. L. No. 93-443, 403, 88 Stat. 1263, 1291-93 (codified as amended at 26 U.S.C. 9001-9013 (2000))

disclosing campaign finance information, enforcing limits and prohibitions on contributions, and overseeing public funding of presidential elections.<sup>42</sup>

**Disclosure.** Certain contributions and expenditures used to influence federal elections must be reported to the FEC so it can make these disclosure reports available to the public. Disclosure is supposed to ensure that the public can easily find the financial sources of campaign messages.<sup>43</sup>

**Individual Contributions.** Contributions comprise the giving of money or anything of value to a federal candidate or political committee for its use in influencing federal elections. FECA placed limits on contributions by individuals and groups to candidates, party committees, and PACs. These limits were changed in 2002 by BCRA. Currently on the federal level, individuals can give up to \$2,300 per candidate, per election period; up to \$28,500 per national party committee, per calendar year; up to \$10,000 per state, local, and district party committee, combined per calendar year; and up to \$5,000 per Political Action Committee, per calendar year.<sup>44</sup>

**Individual Expenditures.** According to federal law, expenditures differ from contributions in that the spender maintains control over how the money is ultimately used. There are two forms of expenditures, independent and coordinated. Independent expenditures are made without coordinating with a candidate, a candidate's committee,

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<sup>42</sup> Federal Election Commission, Federal Election Campaign Laws (October 2005) at 40.

<sup>43</sup> Id. at 1.

<sup>44</sup> Id. at 2.

or political party. If expenditures are made in "coordination"<sup>45</sup> with a campaign, however, they may be regulated as contributions, subject to the same limits and disclosure requirements.<sup>46</sup> FECA limited expenditures by candidates and associated committees, limited independent expenditures to \$1000, and limited candidate expenditures from personal funds.

In 1976, *Buckley v. Valeo*<sup>47</sup> questioned the constitutionality of FECA's limits on independent expenditures. The Court upheld federal limits on campaign contributions, but ruled that spending money to influence elections is a form of constitutionally protected free speech. In striking down limits on campaign expenditures, the Court determined that the laws could limit political contributions and spending only when official candidate campaigns were involved, not when individuals and groups were expressing political opinions. In terms of advertising, to establish that the message is connected with an official candidate campaign, the Court required the use of the phrases like "vote for," "elect," or "defeat."

**Corporate Participation.** FECA prohibited corporations from making campaign contributions or expenditures to a federal candidate's campaign. Corporations could, however, set up PACs and solicit contributions to those PACs from its executives and shareholders. In 1978, however, the Supreme Court ruled in *First National Bank of Boston v. Bellotti*<sup>48</sup> that a Massachusetts criminal statute prohibiting the expenditure of

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<sup>45</sup> Coordination is defined by the FEC as consulting, cooperating, or working in concert with or at the request or suggestion of a candidate or party committee

<sup>46</sup> Id. at 6.

<sup>47</sup> *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976).

<sup>48</sup> *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978).

corporate funds “for the purpose of...influencing or affecting” voters’ opinions infringed on corporations’ “protected speech in a manner unjustified by a compelling state interest.”<sup>49</sup> Despite this ruling, corporations cannot make expenditures in connection with federal elections. The prohibition on corporate contributions and expenditures on the federal level has led to the development of new avenues for putting money into campaigns, such as PACs and independent expenditures.

**PACs.** Stringent campaign finance laws put in place by the FEC coupled with the rising cost of campaigns resulted in the increase of Political Action Committees (PACs) and other interest groups as an avenue for additional campaign fund raising and spending. PACs today, accused of distorting the democratic process, were viewed by reformers of the 1970s as a way for individuals with common interests to get together to make a difference in politics. Political Action Committees (PACs) are political committees that come in two forms: connected PACs and non-connected PACs. Connected PACs or candidate committees are official committees of federal candidates. Non-connected PACs, also known as independent PACs, are not officially affiliated with another entity. On the federal level, PACs have higher contribution limits than individual contributors. They can contribute up to \$5,000 per election to a federal candidate; \$15,000 annually to any national party committee, and \$5,000 annually to any other PAC. Federal PACs may be given up to \$5,000 from any one individual.<sup>50</sup>

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<sup>49</sup> Id.

<sup>50</sup> Federal Election Commission, Federal Election Campaign Laws (October 2005).

Post-*Buckley* politics have seen a significant rise in independent expenditures through non-connected PACs including the 1980s expenditures by the American Medical Association PAC and the Realtors' PAC and the 1996 independent campaigns launched by the AFL-CIO against Republican freshmen.<sup>51</sup> Many argue that these non-connected PACs are "loopholes" in the system of campaign finance regulation that need to be closed.<sup>52</sup> Because these non-connected PACs can spend in ways that parties cannot, National Conservative Political Action Committee Chairman Terry Dolan said: "A group like ours can lie through its teeth, and the candidate it helps stays clean."<sup>53</sup> Others, however, contend that these groups contribute much needed participation to the political process.<sup>54</sup>

Researching the effects of these non-connected PACs is often limited to the reporting of total amounts of money spent specifically for and against candidates. For this reason, much research dealing with these expenditures is concerned with their uncontrolled influence over elections without restriction or accountability.<sup>55</sup> In 1985, Michael Malbin observed that these "independent" expenditures are often "The first method for getting around limits that crosses most people's minds..."<sup>56</sup> Larry Sabato similarly argued that these groups are the "least accountable form of campaign

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<sup>51</sup> Engstrom & Kenny, *supra*, at 885.

<sup>52</sup> Viveca Novak & Jean Cobb, *The Kindness of Strangers*, 5 COMMON CAUSE MAGAZINE 32 (1987).

<sup>53</sup> Myra MacPherson, *The New Right Brigade*, WASHINGTON POST, August 10, 1980.

<sup>54</sup> William F. Buckley, Jr., *About Nikpak*, NATIONAL REVIEW (May 15, 1981).

<sup>55</sup> LARRY MANKINSON, OPEN SECRETS: THE DOLLAR POWER OF PACS IN CONGRESS (1990); Viveca Novak & Jean Cobb, *The Kindness of Strangers*, 5 COMMON CAUSE MAGAZINE 32 (1987).

<sup>56</sup> Michael J. Malbin, *You Get What You Pay For, but Is That What You Want?*, in BEFORE NOMINATION: OUR PRIMARY PROBLEMS (George Grassmuck ed., 1985) at 80.

spending”<sup>57</sup> that frequently use “negative, even vicious, messages and tactics [making] any sort of civility in politics much more difficult to achieve.”<sup>58</sup>

### **Other Campaign Finance “Battlegrounds”**

As campaign finance reformists struggle to address existing loopholes in the law, the rise of new political actors and avenues for spending create new loopholes and a need for address by the Court and the FEC. Additional areas of concern over campaign finance are as follows:

**Issue Advocacy.** As one avenue for political participation, issue advocacy became popular starting in the late 1970s. The Annenberg Public Policy Center<sup>59</sup> estimates that organizations spent more than two million dollars on issue advertising in Washington DC in 2001 and 2002.<sup>60</sup> There are two types of advocacy recognized in federal elections: express advocacy and issue advocacy. According to federal regulations, express advocacy is advocacy that uses particular “magic words”<sup>61</sup> like “elect,” “defeat,” “vote for,” or “vote against,” or when taken as a whole the communication can only be interpreted by a “reasonable person” as advocating the election or defeat of one or more clearly identified candidate(s). Under law, issue

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<sup>57</sup> LARRY J. SABATO, PAYING FOR ELECTIONS (1989) at 20.

<sup>58</sup> *Id.* at 70.

<sup>59</sup> Established in 1993, the Annenberg Public Policy Center of the University of Pennsylvania conducts and disseminates research, hosts lectures and conferences, and convenes roundtable discussions that highlight important questions about the intersection of media, communication, and public policy. The Policy Center, which has offices in Philadelphia and Washington DC, conducts ongoing research in the areas of political communication, information and society, media and the developing child, health communication and adolescent risk.

<sup>60</sup> *Issue ads: Spending by organization*, ANNENBERG PUBLIC POLICY CENTER, Available Online at: [http://www.annenbergpublicpolicycenter.org/issueads/spending\\_org.htm](http://www.annenbergpublicpolicycenter.org/issueads/spending_org.htm) (2003).

<sup>61</sup> as defined in Buckley.

advocacy is defined as that which addresses issues, rather than candidates. Because issue advocacy was viewed as independent from any candidate, prior to 2002 it was completely unregulated.

Corporate Issue Advocacy. While corporations cannot make coordinated contributions and expenditures, they can participate through issue advocacy. In 1978 the United States Supreme Court ruled in *First National Bank of Boston v. Bellotti*<sup>62</sup> that corporations had a First Amendment right to make contributions in order to attempt to influence political processes. In his opinion, Justice Lewis Powell ruled that a Massachusetts criminal statute prohibiting the expenditure of corporate funds "for the purpose of ... influencing or affecting" voters' opinions infringed on corporations' "protected speech in a manner unjustified by a compelling state interest."<sup>63</sup> Others, however, worry that this gives corporations a chance to corrupt the process with corporate money. In his dissenting opinion, Justice Rehnquist articulated why he felt giving corporations this freedom might be dangerous: "A State grants to a business corporation the blessings of potentially perpetual life and limited liability to enhance its efficiency as an economic entity. It might reasonably be concluded that those properties, so beneficial in the economic sphere, pose special dangers in the political sphere."<sup>64</sup>

Pseudo-Issue Advocacy. As a result of *Buckley*'s ruling, parties and PACs often produce "issue advertising," which supports or opposes specific candidates, but avoids the phrases outlined in *Buckley*. According to the Wisconsin Democratic Party the new

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<sup>62</sup> *First National Bank v. Bellotti*, 435 U.S. 765 (1978).

<sup>63</sup> *Id.* in concurring opinion.

<sup>64</sup> *Id.* in dissenting opinion.



trend is hijacking of political elections by special interest groups using pseudo-issue advocacy.<sup>65</sup> The party goes on to describe “phony issue ads” as those that remain under the radar of expenditure regulations by avoiding the magic words “vote for” or “vote against.” By doing so, these individuals or groups are not required to disclose the funding sources for the advertising. Due to this lack of disclosure, it is difficult to track where the money is coming from and how much of it there is.<sup>66</sup>

**Soft Money.** Beyond issue advocacy, individuals and PACs have discovered additional ways to spend money “outside” official candidates’ campaigns. Campaign money comes in two forms: “hard money” and “soft money.” Hard money refers to donations made directly to political candidates. These donations must be declared with the name of the donor, which becomes public knowledge, and are limited by legislation. Soft money is money that is not made directly to a candidate's campaign, but is spent on an activity, such as issue advocacy or grassroots efforts.

In 1979 FECA was amended to allow party committees to accept and spend unlimited amounts of soft money during campaign elections. The Act intended the money to be spent on grass roots “getting out the vote efforts,”<sup>67</sup> but following passage, the parties began using the money on political issue advertising. As long as these ads avoided the phrases outlined in *Buckley*, the parties circumvented finance restrictions and disclosure.

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<sup>65</sup> *Hijacking*, Wisconsin Democracy Campaign Website (2003, July 14), <http://www.wisdc.org/ind02how.html>

<sup>66</sup> *Id.*

<sup>67</sup> FECA Amendments of 1979, Pub. L. No. 96-187, §§ 101303, 93 Stat. 1339, 1339-69

As a result, in 2002 Congress passed the Bipartisan Campaign Reform Act (BCRA)<sup>68</sup> prohibiting the raising and spending of soft money by federal officeholders, candidates, and national parties. It severely restricted the use of soft money by state and local parties in relation to federal election activities,<sup>69</sup> in an attempt to curb the influence of corporate and labor money in federal elections. Despite the breadth of BCRA's restrictions, many politicians and members of Congress argue that BCRA does not directly or conclusively address the increasingly significant impact of non-connected PACs and independent expenditures. They argue that these supposedly issue-based political organizations are able to escape the contribution limits imposed on parties, campaign committees, candidates, and officials, while continuing to "engage in thinly-veiled partisan activities."<sup>70</sup>

In 2003 *McConnell v. FEC*<sup>71</sup> challenged BCRA, but the Supreme Court upheld "Congress' effort to plug the soft money loophole and its regulation of electioneering communications."<sup>72</sup> However, the Court invalidated the Act's requirement that parties choose between either making independent expenditures or coordinated expenditures on behalf of candidates. In addition, the Court contended that campaign finance regulations are only justifiable to curtail the type of corruption that causes a change in legislative votes. It argued that soft money can lead not only to changes in legislative

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<sup>68</sup> Bipartisan Campaign Finance Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81 (2002) (codified in scattered sections of 2 U.S.C., 18 U.S.C., 28 U.S.C., 36 U.S.C. and 47 U.S.C.) (popularly referred to as the "McCain-Feingold" legislation after its Senate sponsors).

<sup>69</sup> A. J. Rosenthal, 527 *Regulation and the Trickle-Down Effect*, NEW YORK UNIVERSITY JOURNAL OF LEGISLATION AND PUBLIC POLICY, 8 (2004).

<sup>70</sup> A. J. Rosenthal, 527 *Regulation and the Trickle-Down Effect*, NEW YORK UNIVERSITY JOURNAL OF LEGISLATION AND PUBLIC POLICY, 8 (2004).

<sup>71</sup> *McConnell v. Federal Election Com'n*, 540 U.S. 93, 124 S. Ct. 619 (2003).

<sup>72</sup> *Id.* in majority opinion.

votes, but manipulation in various aspects of legislative business. While this ruling affects the use of corporate and union money in all federal elections, it has not been applied to elections on the state and local level.

## **Louisiana Law**

With a former governor currently behind bars, a Congressman currently under indictment for soliciting bribes, money laundering, and racketeering (to name a few), Louisiana is a state with what political scientist Wayne Parent refers to as “an unparalleled record of political corruption.”<sup>73</sup> In 1949 V. O. Key singled Louisiana out in his classic work *Southern Politics* in a chapter titled “The Seamy Side of Democracy.”<sup>74</sup> Given such, Louisiana is a good place to examine campaign finance law and local manifestations of political corruption.

**Oversight.** To understand the case of BRNext, it is important to understand areas in which Louisiana campaign finance laws are similar to federal law and areas in which they differ from federal law. One area in which the two are similar is the area of oversight. On the federal level the FEC oversees and enforces campaign finance regulations. In Louisiana, campaign finance is overseen by the Louisiana Board of Ethics and the Supervisory Committee on Campaign Finance. The Louisiana Board of Ethics is empowered to administer and enforce laws within its jurisdiction, represent the public interest in the administration of any law, and offer and enter into consent

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<sup>73</sup> WAYNE PARENT, *INSIDE THE CARNIVAL: UNMASKING LOUISIANA POLITICS 2* (2004).

<sup>74</sup> V. O. KEY JR., *SOUTHERN POLITICS* (1949).

opinions regarding violations of law.<sup>75</sup> The board consists of eleven members, seven appointees selected by the governor and two each nominated by the House and Senate.<sup>76</sup> Board members are supported by an administrative staff which consists of an Ethics Administrator, a Deputy General Counsel, and four supporting attorneys.

The FEC has been called the “toothless tiger.”<sup>77</sup> The Louisiana Ethics Board is also worthy of this name. The board, solid in theory, is in reality rendered ineffective by vague laws and poor structure. According to former Deputy General Counsel of the Louisiana Ethics Board, Maris LeBlanc, violations of Louisiana campaign finance law are difficult to detect and prosecute.<sup>78</sup> Rather than actively seeking violations, the Louisiana Ethics Board relies on filed complaints by those knowledgeable of illegal or unethical activity. For example, a case was brought to the attention of the Ethics Board concerning the 1987 campaign of Doug Green, a candidate for Insurance Commissioner. After investigating the complaint, Green was found to have accepted more than \$2 million from a different number of companies funded by a family that owned a local insurance company. Many of those involved were sentenced to federal prison.<sup>79</sup> Leblanc said had this not been brought to the attention of the Board by a knowledgeable party, it may have gone unnoticed.<sup>80</sup>

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<sup>75</sup> Louisiana Board of Ethics Rules 202

<sup>76</sup> *House Chooses Two New Ethics Board Members*, ASSOCIATED PRESS, Available online at [www.theadvocate.com](http://www.theadvocate.com), (2007).

<sup>77</sup> Amanda S. LaForge, *The Toothless Tiger-Structural, Political and Legal Barriers to Effective FEC Enforcement*, 10 THE AMERICAN UNIVERSITY ADMINISTRATIVE LAW JOURNAL 351 (1996).

<sup>78</sup> Interview with Maris E. Leblanc, former Deputy General Counsel for the Louisiana Board of Ethics, in Baton Rouge, La. (Feb. 28, 2007).

<sup>79</sup> *Pleas by Insurance Officials*, N.Y. TIMES, May 30, 1990, AP story.

<sup>80</sup> Interview with Maris E. Leblanc, former Deputy General Counsel for the Louisiana Board of Ethics, in Baton Rouge, La. (Feb. 28, 2007).

**Disclosure.** In addition, the board is charged with disclosing contributions and expenditures, as well as investigating any alleged violations of the law. Financial reports are disclosed through the Ethics Board website.

**Contributions.** Disclosure is important in Louisiana, considering the many avenues for contribution. Louisiana law differs significantly from federal law in that it allows corporations to contribute directly to candidates and committees. In Louisiana, individuals and corporations may give up to \$5,000 to a candidate's campaign or candidate PAC. A candidate PAC, which is treated differently than an independent PAC, can then contribute a maximum of \$5,000 to a candidate's campaign – unless it is a Big PAC,<sup>81</sup> in which case it can contribute up to \$10,000. Contributions, in-kind contributions, loans, endorsements, or guarantees on loans are all counted toward the contribution limits.<sup>82</sup> However, if the PAC is “non-connected” or “independent” – if it is set up for *issue advocacy*, not candidate endorsement – then individuals and corporations may contribute up to \$100,000.<sup>83</sup>

**Expenditures.** In addition to contributions, individuals and corporations can make expenditures in efforts to affect elections. As on the federal level, Louisiana expenditures are classified either as independent or coordinated. Individuals, corporations, and PACs can make unlimited independent expenditures on behalf of a candidate. If the expenditures are coordinated, however, they are considered in-kind

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<sup>81</sup> On the federal level and in many other states, these groups are referred to as Super PACs.

<sup>82</sup> R. S.18:1505.2 H, K

<sup>83</sup> R. S.18:1505.2 H, K

contributions and subject to contribution limits.<sup>84</sup> Leblanc says the Louisiana law is very clear about the prohibition of coordination between non-connected PACs and candidates. According to the law, expenditures made in coordination with a candidate or candidate PAC are considered contributions and subject to the contribution limits.<sup>85</sup> However, Leblanc admits, “It’s easy to see that is the rule, but it is difficult to prove that someone has violated it.” Because this can be so tricky, Leblanc suggests looking to see if the same people are involved in a candidate committee and a political committee or if they use the same public relations firm or advertising agency.<sup>86</sup>

**PACs.** In Louisiana, political action committees (PACs) are either classified as candidate committees or political committees. Political committees are Louisiana’s equivalent to federal non-connected PACs. They are required to maintain independence from any candidate and have higher contribution and expenditure limits. For this reason, Louisiana PACs that avoid collusion with a candidate or candidate committee can put much more money into a given election.<sup>87</sup>

**Issue Advocacy.** Louisiana PACs, like federal PACs, often participate in issue advertising. In terms of regulating issue advocacy on the state level, Louisiana law does not directly address the problem. Whereas the Bipartisan Campaign Reform Act sought to stop express advocacy disguised as issue advocacy (often referred to as pseudo-issue

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<sup>84</sup> Id.

<sup>85</sup> R.S. 18:1483 6 b (i); “Expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents and shall be considered a contribution to such a candidate.”

<sup>86</sup> Interview with Maris E. Leblanc, former Deputy General Counsel for the Louisiana Board of Ethics, in Baton Rouge, La. (Feb. 28, 2007).

<sup>87</sup> R.S. 18:1491.1

advocacy) on the federal level, there is no such law for Louisiana campaigns. In a 1999 advisory letter, however, the Louisiana Board of Ethics stated that “if the message is unmistakable, unambiguous, and suggestive of only one meaning, and if that meaning is an expression of preference of one candidate over another candidate, then the underlying contributions and expenditures should be reported as otherwise required by applicable provisions of the CFDA [Campaign Finance Disclosure Act].”<sup>88</sup> In addition, in a 2005 opinion, imposing a \$20,000 fine on the Republican State Leadership Committee, the Board held that the campaign finance disclosure requirements are applicable where “any viewer of the advertisement would understand, even without explicit word[s] of express advocacy, that when taken as a whole and in its factual context, the unmistakable intent of the advertisement was to oppose or otherwise influence an election.”<sup>89</sup> Issue advocacy has yet to be defined or included in Louisiana campaign finance statutes. These rulings suggest a need for address and clarification in the overall law.

In summary, this chapter outlines key components of federal campaign finance law, citing the rationale behind each. It addresses key campaign finance “battlegrounds” including corporate participation, PAC participation, the use of pseudo-issue advocacy, and the use of supposedly independent expenditures. Finally, it highlights significant differences in Louisiana and federal campaign finance law, particularly the allowance of corporate contributions.

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<sup>88</sup> Louisiana Board of Ethics, Campaign Finance Advisory Op. No. 1999-580 (Sept. 17, 1999).

<sup>89</sup> Louisiana Board of Ethics, Campaign Finance Ruling No. 2003-746 (Jan. 13, 2005).

## BRNEXT AND THE 2004 MAYORAL RACE

L. Lane Grigsby, age 65, founded his contracting company, Cajun Constructors, in 1973.<sup>90</sup> Over the next fifteen years the company experienced tremendous growth reaching \$35 million in contract revenues. In 1998 it reached \$139 million in revenues and has currently completed over \$2 billion in contracts nationwide. Recently, the firm won state bids for several cleanup and reconstruction projects in New Orleans following Hurricane Katrina; these included helping to pump floodwater out of the city and rebuilding the Industrial Canal levee.<sup>91</sup> In addition to owning Cajun Constructors, Grigsby serves on the board of Directors for The Shaw Group, a multi-million dollar contracting firm that has been named to *Fortune* magazines "Fortune 500 List" several times.<sup>92</sup> He also has 16 active corporations and three political action committees registered with the state of Louisiana.

Generally speaking, according to Louisiana law Grigsby would have several conventional ways of affecting the election. As an individual he could contribute \$5,000 to the Kip Holden campaign. Also, as an individual, he could make unlimited expenditures in an effort to defeat Simpson or elect Holden by disclosing that the messages came from him, Lane Grigsby. Affecting politics is nothing new for Grigsby. He has been affecting elections since 1988 and has been involved in over 70 legislative

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<sup>90</sup> According to Forbes.com website. (Retrieved on June 19, 2007).

<sup>91</sup> According to "Our History" on Cajun Constructors website. (Retrieved on June 19, 2007).

<sup>92</sup> Forbes.com Online available at

<http://www.forbes.com/finance/mktguideapps/personinfo/FromMktGuideIdPersonTearsheet.jhtml?passedMktGuideId=102927>



aces.<sup>93</sup> He is currently under investigation for coordination with a candidate in the 2006 Senate race. He admittedly “whacked” one candidate, William Daniels, with \$20,000 worth of mailouts publicizing his divorce. Just recently, he took a full-page advertisement out in his local newspaper soliciting candidates to run for state representative.<sup>94</sup>

As Grigsby’s political past illustrates, people are often rewarded for finding creative ways of stretching or manipulating the law in electoral politics. By making use of legal loopholes, the wealthy are able to inject larger amounts of money into the process than intended by law. This study is an example of such legal manipulation. Rather than using conventional avenues for spending, Grigsby made use of Louisiana’s vague and loophole-ridden laws by sending his money and his company’s money through various channels, thus, putting more money into the election than intended by law and doing so under the guise of an issue-based political committee.

Grigsby formed the PAC BRNext in January 2004. To achieve maximum electoral impact, Grigsby recruited well-connected political players to run it.<sup>95</sup> He recruited media consultant George Kennedy, brother of Louisiana State Treasurer John Kennedy and former consultant to Lt. Governor Mitch Landrieu; executive director and spokesperson Caroline Roemer, daughter of former Louisiana Governor Buddy Roemer; and general consultant Pat Bergeron, former Louisiana BREC commissioner

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<sup>93</sup> Interview with Lane Grigsby, founder, BRNext, in BatonRouge, La. (May, 14 2007).

<sup>94</sup> Id.

<sup>95</sup> Id.

and Assistant Elections Commissioner.<sup>96</sup> As seasoned politicians and political consultants, BRNext's managers were well trained to affect elections.

In the beginning, Kennedy and Grigsby presented BRNext to the public as a grassroots movement, comprising of members of the community. They promised that it would stay positive in tone and focus on the issues. Its website announced that BRNext "formed as the next step to vigorously participate in local electoral politics."<sup>97</sup> In addition, the PAC announced that it intended to make issue spots that would empower the people and the press to begin having an honest debate about the mayoral election.<sup>98</sup>

BRNext's media plan included television spots, news releases, public relations events, and a website. Television, the PAC's primary medium, targeted what Kennedy called high-propensity voters, or those who had voted in the last six elections.<sup>99</sup> According to Kennedy, the news releases were not only targeted at the press, but at the Simpson campaign as well. He said the releases were designed as an element of "Psych-op" or "psychological operation" aimed at the Bobby Simpson campaign. He said, "Psychologically it stirs your opponent up, leaving them [sic] chasing their tail. It got [Simpson's] campaign off their message and caused them to be more modest about their product claims."<sup>100</sup> BRNext used public relations events to attract and inform potential investors, and the website, abandoned shortly after the beginning of the campaign,

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<sup>96</sup> P. Bergeron, *BRNext Releases Study Data*, (June 1, 2004), Available Online at: [www.brnext.org](http://www.brnext.org).

<sup>97</sup> Direct Observations of BRNext Website, <http://www.brnext.org> (retrieved April 20, 2005).

<sup>98</sup> Direct Observations of BRNext Website, <http://www.brnext.org> (retrieved April 20, 2005).

<sup>99</sup> Interview with George Kennedy, Media Consultant, BRNext, in Baton Rouge, La. (April 22, 2005).

<sup>100</sup> *Id.*

targeted interested individuals and the press.<sup>101</sup>

To ensure maximum impact, the group used software called TV Scan to find the perfect fit between the PAC's budget and its target demographics.<sup>102</sup> The breakout spot, a one-minute commercial depicting people around Baton Rouge with the tag: "The pain of change is the price of progress,"<sup>103</sup> attempted to achieve name identification and feelings of good will. Following this ad, BRNext's message began to shift from broad issues toward more specific ones, including traffic and crime. The messages also shifted from blaming vague "leadership" to naming Simpson in particular. The second and fourth commercials discussed crime and traffic, blaming nonspecific Baton Rouge "leadership."<sup>104</sup> The third commercial listed Homeland Security expenditures by mayor-incumbent Bobby Simpson including skittles and peppermint patties.<sup>105</sup> The fifth commercial depicted two faceless candidates that expressed opposing views on various subjects. The commercial then revealed that both candidates were in fact Simpson.<sup>106</sup> The PAC's negative campaign against Simpson culminated with a final television spot that depicted a baboon tossing money into the air while a voice-over said, "The mayor's secret traffic plan; a north loop to nowhere. Simpson tried to hide it. On election day, don't be fooled again."<sup>107</sup>

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<sup>101</sup> Id.

<sup>102</sup> Id.

<sup>103</sup> Direct Observations of BRNext Website, <http://www.brnext.org> (retrieved April 20, 2005).

<sup>104</sup> Commercial: TV Spot 4- 11<sup>th</sup> Most Dangerous City (Available at [www.brnext.org](http://www.brnext.org))

<sup>105</sup> Commercial: TV Spot 3- Homeland Security (Available at [www.brnext.org](http://www.brnext.org))

<sup>106</sup> Commercial: TV Spot 5- Two Candidates (Available at [www.brnext.org](http://www.brnext.org))

<sup>107</sup> Commercial: TV Spot 7- Loop (Available at [www.brnext.org](http://www.brnext.org))

As a result of the group's shift to negative campaigning, many contributors pulled out of BRNext, and some demanded their money back.<sup>108</sup> One member that pulled out, fundraiser Chris Hicks, said that he and other contributors felt that by violating its mission, BRNext betrayed the public and them. Another former member cited BRNext's focus "on the agenda of its chairman, Lane Grigsby, who [was] bankrolling the political action committee with loans" as his reason for leaving the group.<sup>109</sup> In an interview, Kennedy claimed BRNext had to "shift gears" because other candidates failed to pick up on their anti-Simpson message.<sup>110</sup> This statement, however, seems naïve considering that generally negative campaigning has often been the function of independent expenditures. As National Conservative Political Action Committee Chairman Terry Dolan said: "A group like ours can lie through its teeth, and the candidate it helps stays clean."<sup>111</sup>

According to Kennedy, this shifting of gears meant connecting the dots from the issues to Simpson, saying to voters, "See. Be mad at him."<sup>112</sup> Grigsby defended the shift in tactics and mocked his critics for their naiveté. He attributed the exodus from BRNext to people's "false sense of being engaged in politics," because they gave "a little bit of money." He said, "Some people gave me their money and trusted that I would perform in a manner which would not embarrass them. And I had to give some of them their

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<sup>108</sup> These members did receive their money back; Interview with Chris Hicks, Fundraiser, BRNext, in Baton Rouge, La. (April 12, 2005).

<sup>109</sup> Scott Dyer, *Two Members of BRNext Resign Over Campaign "Tone,"* THE ADVOCATE, September 16, 2004.

<sup>110</sup> Interview with George Kennedy, Media Consultant, BRNext, in Baton Rouge, La. (April 22, 2005).

<sup>111</sup> Myra MacPherson, *The New Right Brigade*, WASHINGTON POST, August 10, 1980. Also see page 28.

<sup>112</sup> Id.

money back...They didn't want to be a part of an attack on the current administration.

It takes courage to tell the emperor he's naked."<sup>113</sup>

Kennedy echoed Grigsby's attitude, claiming neither he nor Grigsby cared if they angered its members or even voters. He said there was no real downside for BRNext. Had the group been unsuccessful at ousting Simpson, Kennedy said Simpson would still have taken "a major hickey" and BRNext would have been viable "with money still hammering on Simpson." He summed this sentiment up in a mixed metaphor when he said, "We were baking a cake and didn't know what kind of cake it was going to be. We just knew that when it came out the oven, it was gonna be cooked."

At the end of the day, BRNext did indeed "cook" its cake. In November 2004, East Baton Rouge parish elected Holden as the first African-American mayor-president. Holden defeated incumbent Simpson by nearly 15,000 votes.<sup>114</sup> While it is impossible to definitively link Holden's success to BRNext's campaign, research and opinions suggest a connection. Not surprisingly, Kennedy and Grigsby credited BRNext with having a significant impact on the election. Kennedy said follow-up polls suggested that BRNext stopped Simpson's growth, boasting that "We capped his growth by killing him with paper cuts."<sup>115</sup> Grigsby echoed this view, insisting that the "single thing that pulled Bobby Simpson down was BRNext...There is no doubt in my mind."<sup>116</sup> Grigsby and Kennedy, however, were not the only ones who saw its impact.

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<sup>113</sup> Interview with Lane Grigsby, founder, BRNext, in BatonRouge, La. (May, 14 2007).

<sup>114</sup> Election results (Available at [www.sos.louisiana.gov](http://www.sos.louisiana.gov)).

<sup>115</sup> Interview with George Kennedy, Media Consultant, BRNext, in Baton Rouge, La. (April 22, 2005).

<sup>116</sup> Interview with Lane Grigsby, founder, BRNext, in BatonRouge, La. (May, 14 2007).

Media outlets agreed. A pollster with Southern Media Opinion Research said “Simpson may have been the only Republican in Louisiana who didn’t benefit from sharing the ballot with Bush. US Senator David Vitter and US Representative Richard Baker, both Republicans, were strong in the parish, but when you come down to the mayor, it’s a different story, so there must have been something that was interjected into the race that had a profound impact, and guess who it was? BRNext.”<sup>117</sup> The pollster said he thinks at least part of Simpson’s problem was due to the “11th hour ad campaign launched by BRNext.”<sup>118</sup>

The *Greater Baton Rouge Business Report* also considered BRNext to be a key ingredient to Simpson’s defeat:

...BRNext!, despite complaints of negativity, managed to exploit Simpson's negatives, and the incumbent's only response was to attack Holden's legislative voting record. As one Republican who voted for Holden said, ‘Bobby never refuted the BRNext! charges. He only said it was negative campaigning and responded by going negative against Holden.’ Finally, there was a growing sense, real or not, by many in South Baton Rouge and elsewhere that Simpson was doing little to move Baton Rouge forward. In the end, it was all too much for Simpson to overcome.<sup>119</sup>

Following the election, the defeated Simpson attested to the power of the group when he said: “Baton Rouge Next was a third-party, soft-money group, and if that’s what this public wants us to go through in the future, they’ve spoken. I guess the public makes that decision.”<sup>120</sup>

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<sup>117</sup> S. Dyer, *Holden’s Win Aided by Daniel*, THE ADVOCATE, Oct. 4, 2004.

<sup>118</sup> Id.

<sup>119</sup> J. R. Ball, *Why Simpson Lost*, THE GREATER BATON ROUGE BUSINESS REPORT, Nov. 9, 2004.

<sup>120</sup> S. Dyer, *Holden’s Win Aided by Daniel*, THE ADVOCATE, Oct. 4, 2004.

When challenged about BRNext's influence on the election, Kennedy and Grigsby both insisted that their political involvement through BRNext came from altruistic motives. Kennedy publicly asserted that BRNext, an entity supposedly backed by wealthy citizens practicing *noblesse oblige*, represented "the new philanthropy."<sup>121</sup> However, that claim rang hollow when he privately boasted: "Give me \$2 million and I don't care who the governor is," he said, "I can give them a 45 percent negative."<sup>122</sup> Grigsby also claimed his efforts were selfless, echoing Kennedy when he called BRNext part of the "philanthropic movement of the future," where "people recognize that they can make a larger impact with their wealth than they ever dreamed possible." He even compared himself to Carnegie, saying he was using his wealth to better the community, only expecting good government in return.<sup>123</sup> This study, however, suggests that the legal framework facilitates improper and cynical abuse of the system, resulting in the "appearance of corruption."<sup>124</sup>

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<sup>121</sup> Interview with George Kennedy, Media Consultant, BRNext, in Baton Rouge, La. (April 22, 2005).

<sup>122</sup> Id.

<sup>123</sup> Interview with Lane Grigsby, founder, BRNext, in Baton Rouge, La. (May, 14 2007).

<sup>124</sup> *Buckley v. Valeo*, 424 U.S. 1, 26 (1976).

## WHAT BRNEXT MEANS FOR DEMOCRACY

### **BRNext: Behind the Image**

Interviews with Grigsby and Kennedy, and an in-depth look at campaign finance records, revealed that BRNext was a major financial endeavor by one individual, Lane Grigsby. Through this PAC, his corporations, his family, and contacts, Grigsby was able to funnel a large amount of money into the 2004 mayor's race within Louisiana's existing legal framework. In the areas where it appears that Grigsby and BRNext may have skirted the edge of legality or at least violated the spirit of Louisiana's laws, the oversight and enforcement agency was either unaware of the violations, chose to ignore them, or was hindered by vague and loophole-ridden laws. BRNext, formed with the primary intent of ousting incumbent Mayor Bobby Simpson,<sup>125</sup> was able to participate in the election in several ways. As a registered non-connected PAC, BRNext was able to circumvent contribution and expenditure restrictions through corporate contributions and loans, pseudo-issue advocacy, and "independent" expenditures. In addition, BRNext and Grigsby were able to avoid legal interference either by virtue of their personal clout with the enforcement agency or negligence on the agency's part. This chapter outlines the ways in which BRNext and Grigsby were able to participate in the 2004 election, discusses what this means for democracy, and gives suggestions for policy change.

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<sup>125</sup> Interview with George Kennedy, Media Consultant, BRNext, in Baton Rouge, La. (April 22, 2005); Interview with Lane Grigsby, founder, BRNext, in Baton Rouge, La. (April 25, 2007).



**Corporate Contributions & Unpaid Loans.** At the heart of this discussion is the question of how BRNext was truly funded. In the spirit of the law, PACs are supposed to be funded by a collection of like-minded citizens who, by pooling their resources, can impact the electoral process. BRNext was not such a group. In an interview, Grigsby said he made an initial investment of \$300,000 to BRNext through various financial avenues.<sup>126</sup> According to Louisiana campaign finance law, individuals and corporations can give \$100,000 to PACs. This limit includes loans and in-kind contributions. Records suggest that Grigsby funneled more than \$450,000 into BRNext by the end of the mayoral election, using his companies, loans, and other individuals.<sup>127</sup>

According to the Louisiana Secretary of State's commercial division's corporations database, Grigsby has 31 registered corporations, 16 of which are active. Of these 16, three contributed to BRNext through loans. Loans made to BRNext included loans made by Grigsby, his company Cajun Contractors, his company Grigsby Properties, his wife Bobbi Grigsby, Cajun Contractors vice president Milton Graugnard, and a corporation which Grigsby is part owner, Kyle Associates. In 2004, Cajun Constructors loaned BRNext \$140,382.58. (Again, under Louisiana law, loans are also subject to contribution limits.<sup>128</sup> This loan, therefore, is a violation of the \$100,000 contribution limit.) BRNext reported a payment back to Cajun for \$140,497.34. Grigsby Properties loaned BRNext \$30,100, which BRNext reported returning. However,

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<sup>126</sup> Interview with George Kennedy, Media Consultant, BRNext, in Baton Rouge, La. (April 22, 2005); Interview with Lane Grigsby, founder, BRNext, in Baton Rouge, La. (April 25, 2007).

<sup>127</sup> Louisiana Campaign Finance Records, Available at <http://www.ethics.state.la.us/cf.htm>.

<sup>128</sup> R. S. 18:1505.2 H, K "Contributions, in-kind contributions, loans, endorsements of guarantees on loans and transfer of funds are all counted towards the contribution limits."

Grigsby personally loaned BRNext \$100,000 and has yet to be paid back. Grigsby said he loaned BRNext the money in case others later decided to “jump on the bandwagon” and he could pay himself back. (Though he later said, he never intended to get the money back).<sup>129</sup> His wife, Bobbi Grigsby loaned BRNext \$50,000 and has yet to be paid back. Milton Graugnard, Cajun Contractors’ vice president, loaned BRNext \$25,000 in 2004 and has yet to be paid back. Finally, one of Grigsby’s companies, Kyle Associates, loaned BRNext \$12,500 in 2005 and has yet to receive payment. Beyond loans, Grigsby’s wife also made a contribution of \$50,000 to BRNext. His company, Cajun Constructors, contributed \$20,100, and his vice president contributed \$30,014.82.

This was all done in accordance with Louisiana law as pertains to contributions to an independent PAC (with exception to the loan from Cajun Constructors). These loans and contributions are problematic, however, in two ways. First, the law states that it is illegal to give in the name of another.<sup>130</sup> It is problematic, then, that Grigsby claims to have, himself, given BRNext \$300,000.<sup>131</sup> This suggests that Grigsby’s wife and vice president gave in his place. Secondly, had BRNext registered as a candidate PAC – and it clearly operated as one – Grigsby and each of his entities would have only been permitted a \$5,000 contribution each to BRNext, which would have severely diminished its coffers. Based on Grigsby’s statement and financial records, however, it appears that Grigsby, through his companies, his wife, and his vice president, gave BRNext a total of

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<sup>129</sup> Interview with Lane Grigsby, founder, BRNext, in BatonRouge, La. (May, 14 2007): Grigsby said

<sup>130</sup> R. S. 18:1505.2 B; Prohibited Practices: “Making contributions or loans through or in the name of another.”

<sup>131</sup> Interview with Lane Grigsby, founder, BRNext, in BatonRouge, La. (May, 14 2007): Grigsby said, “I loaned BRNext a whole bunch of money. BRNext has never paid me back. It’s not going to. I knew it wasn’t going to.”

\$458,097.40 through contributions and loans. Even following loan repayments, Grigsby *himself* spent \$287,614.82.<sup>132</sup> This is a prime example of how the law allows individuals to give more money than intended through their various entities.

Grigsby acknowledged this vulnerability in the system: “If you want to get involved in a state legislature campaign they say you can only give \$2,500. Per entity! I’ve got ten entities. I’m in for \$25,000. It’s very easy. Now what you do is once you get in there, you start trying to shape people’s thought process.”<sup>133</sup>

He further outlined his efforts when he said, “With BRNext what I did was I got a little bit of money from about 50 people...and then I put, or my entities that I incurred, put about \$300,000 into the BRNext campaign [reports indicate it was more like \$450,000] ...The fact of the matter is...within a PAC if you hold it tightly you can put enough money in there and not have to go knockin’ on doors.” Grigsby said he primarily used loans to put money into BRNext. When asked about being paid back, Grigsby said, “You put your money in, and you’re not going to get it back. I never intended to get it back.”<sup>134</sup> This raises questions about who monitors these loans to ensure they are legitimate and whether or not they are paid back or listed as defaulted on IRS forms. Without access to financial records it is difficult to determine whether Grigsby drew from his personal accounts or whether he, his wife, and vice president drew from the same corporate treasury.

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<sup>132</sup> before loan payments \$433,097.40.

<sup>133</sup> Interview with Lane Grigsby, founder, BRNext, in Baton Rouge, La. (May 14, 2007).

<sup>134</sup> Interview with Lane Grigsby, founder, BRNext, in Baton Rouge, La. (May, 14 2007).

Finally, another contracting company in which Grigsby is on the board of directors, Shaw (now publicly owned and traded), contributed \$50,000 to BRNext. Shaw's founder, Jim Bernhard contributed \$50,000. In addition, Jim Bernhard, his wife, and son contributed \$15,000 to Kip Holden's campaign. Bernhard, his family, and Shaw apparently approved of BRNext's campaign, as they did not pull out of the group or request their money back following the PACs negative shift. While these contributions are in accordance with legal limits, they provide further connections between the two political camps and raise the question of whether contracting corporations, which actively seek contracts with the city and state, should be allowed to use their corporate wealth to affect campaigns.

**Issue Advocacy.** Because Grigsby was able to put so much money into BRNext, he had access to expensive airtime, a prime means of reaching voters. BRNext reported a total of \$311,963.61 spent on advertising and media buys. Because these ads avoided words of "express" advocacy, they were not subject to the same disclosure and contribution limits. Had the ads been treated as express advocacy, they would have been considered in-kind contributions, subject to the \$5,000 limit. So, they would not have been permitted by law.

In a 2005 opinion, imposing a \$20,000 fine on the Republican State Leadership Committee, the Louisiana Board of Ethics held that the campaign finance disclosure requirements and expenditure limits are applicable where "any viewer of the advertisement would understand, even without explicit word[s] of express advocacy,

that when taken as a whole and in its factual context, the unmistakable intent of the advertisement was to oppose or otherwise influence an election.”<sup>135</sup>

Kennedy said that contrary to BRNext’s public image, the group formed with the primary intent of unseating incumbent Mayor Bobby Simpson.<sup>136</sup> Grigsby confirmed this when he said, “It was ABB; Anybody But Bobby.”<sup>137</sup> Though BRNext’s commercials did not use the “magic words”<sup>138</sup> outlined in *Buckley*, they did explicitly advocate opposition to Simpson with lines like, “The mayor’s secret traffic plan, a north loop to nowhere. Simpson tried to hide it. On election day, don’t be fooled again.”<sup>139</sup> In an interview Grigsby said, “A third-party PAC can do whatever they want to. As long as you don’t endorse a candidate you can spend whatever you want to enhance his campaign.”<sup>140</sup> According to the Ethics Board, however, any advertisement that seeks to “oppose or otherwise influence an election”<sup>141</sup> is express advocacy and should be considered an in-kind contribution, subject to contribution limits.

Under the Board of Ethics ruling, BRNext should have reported the commercials as in-kind expenditures for the Kip Holden campaign. In addition, the PAC should have been registered as a candidate committee, not a non-connected committee. Had it

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<sup>135</sup> Louisiana Board of Ethics, Campaign Finance Ruling No. 2003-746 (Jan. 13, 2005).

<sup>136</sup> Interview with George Kennedy, Media Consultant, BRNext, in Baton Rouge, La. (April 22, 2005).

<sup>137</sup> Interview with Lane Grigsby, founder, BRNext, in Baton Rouge, La. (May, 14 2007).

<sup>138</sup> *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976).

<sup>139</sup> Commercial: TV Spot 7- Loop (Available at [www.brnext.org](http://www.brnext.org)).

<sup>140</sup> Interview with Lane Grigsby, founder, BRNext, in Baton Rouge, La. (May, 14 2007).

<sup>141</sup> Louisiana Board of Ethics, Campaign Finance Ruling No. 2003-746 (Jan. 13, 2005).

done so, BRNext would have only been allowed to contribute \$5,000 to the Holden campaign.<sup>142</sup> Instead, BRNext reported a total of \$311,963.61 spent on advertising and media buys.<sup>143</sup>

**“Independent” Expenditures.** BRNext was able to avoid candidate contribution limits by registering as a non-connected PAC. Therefore, its expenditures were deemed “independent,” rather than coordinated with the Holden campaign. Although, again, this study does not attempt to undertake the task of definitively proving that coordination, the overlapping expenditures made by BRNext and the Holden campaign certainly give the appearance of such coordination – or, in other words, the appearance of corruption.

For its advertising campaign, BRNext hired well-known political consultant George Kennedy. In the past, Kennedy has worked with media consultant Rannah Gray, who was also Kip Holden’s<sup>144</sup> media consultant and spokesperson.<sup>145</sup> Under Louisiana campaign finance law, contributions include “expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents and shall be considered to be a contribution to such a candidate.”<sup>146</sup> So, the fact that both Kennedy and Gray

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<sup>142</sup> R.S. 18:1505.2 H, K

<sup>143</sup> Due to the nature of the disclosure reports, it is difficult to determine what money was spent on what form of advertising.

<sup>144</sup> Kip Holden was contacted three times for an interview, but did not respond back.

<sup>145</sup> Jim Brown, *The Feds Continue to Stick it to Us*, POLITICS LA.COM, December 17, 2003

<sup>146</sup> R. S. 18:1483 (6) b.i.

<sup>146</sup> Jeremy Alford, *The Character Assassin*, THE INDEPENDENT WEEKLY, October 18, 2006:

“Kennedy seems comfortable here at Compose Digital Design in Baton Rouge, a hub of sorts for some of the most talented communications specialists in the state. He’s a longtime client, but it’s difficult to tell. His awards are displayed in the lobby alongside accolades for the partners, and he enjoys free reign over

worked together in the past and during this election, and the fact that they both worked out of the address 7650 Old Hammond Highway, at least gives the appearance of coordination.<sup>147</sup> In addition, Gray is listed as a partner of Marmillion/Gray Marketing and Media. The Baton Rouge branch of Marmillion/Gray also lists the same Old Hammond Highway address as Compose Digital, the company that Kennedy and Gray both work out of.<sup>148</sup>

BRNext and the Holden campaign reported similar expenditures to these consultants and their companies. In campaign disclosure records BRNext reported expenditures to Kennedy, Kennedy's employer Compose Digital Design, and Gray's company Gray Marketing and Media. The PAC reported \$47,264.90 paid to Compose Digital Design, \$72,000 to Kennedy, and \$230,434 to Gray Marketing and Media. In disclosure reports, Holden similarly reported expenditures to Compose Digital, Kennedy's employer; Marmillion/Gray, Gray's company; and Rannah Gray herself. Holden reported paying \$928 to Compose Digital, \$14,000 to Marmillion/Gray, and \$234,104 to Rannah Gray. While it is difficult to prove conclusively that Kennedy and Gray worked together on the 2004 mayor's race, working out of the same office and receiving money from both BRNext and Holden is compelling information and enough

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the entire facility."

<sup>146</sup> Secretary of States corporation database available at [www.sos.louisiana.gov](http://www.sos.louisiana.gov).

<sup>146</sup> According to the website [www.marmillion.com](http://www.marmillion.com) and the American Association of Political Consultants membership roster.

to prove at least the “appearance of corruption.”<sup>149</sup> To avoid this, BRNext’s expenditures should have been reported as in-kind contributions or coordinated expenditures, which would have been subject to limits.

**Oversight/Enforcement.** Not only are BRNext’s consulting relationships troubling, so too is its connection with the oversight and enforcement agency, the Board of Ethics. Gray Sexton<sup>150</sup> is the appointed Ethics Administrator, serving as general counsel to the board,<sup>151</sup> managing the collection and dissemination of any material or reports required to be filed with the board pursuant to any law,<sup>152</sup> and sometimes, after consultation with the Chairman of the board, issuing advisory opinions.<sup>153</sup> It is therefore troubling that Gray Sexton is listed as a registered agent for 18 of Grigsby’s 31 registered corporations, and as director of one. An employee of Sexton, Alice Diez, is listed as the registered agent of BRNext. In addition, the address listed for BRNext is that of “The Law Offices of Gray Sexton.”<sup>154</sup> Diez is also listed as the registered agent of Grigsby’s two new PACs, TigerPAC and LANext.

Sexton’s position is a Louisiana Civil Service position, and as such, is under civil service rules and regulations. Under Chapter 14 in the Civil Service Rules, Louisiana employees are prohibited from engaging in political activity and taking “active part in the management of affairs of a political party, faction, candidate, or any political

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<sup>149</sup> Buckley v. Valeo, 424 U.S. 1, 26 (1976).

<sup>150</sup> Sexton was contacted for an interview, but instead recommended Maris LeBlanc.

<sup>151</sup> Louisiana Board of Ethics Rules 4:401 A. 1

<sup>152</sup> Louisiana Board of Ethics Rules 401 A 7

<sup>153</sup> Louisiana Board of Ethics Rules 605

<sup>154</sup> Call made to the address registered with the Louisiana Secretary of State’s office.



campaign, except to exercise his right as a citizen to express his opinion privately.”<sup>155</sup>

According to the Board of Ethics Rules, a “public servant is prohibited from receiving any thing of economic value for any service which...is substantially related to the duties and responsibilities, programs, or operations of the agency of the public servant.”<sup>156</sup> Under these rules, neither Sexton nor his employee should have been involved with BRNext or Grigsby.

Also, “any legal entity in which the public servant exercises control or 25%, is prohibited from receiving any thing of economic value for services rendered to...any person who conducts operations or activities which are regulated by the employee’s agency; OR any person who has a substantial economic interest which may be substantially affected by the performance or nonperformance of the public employee’s official job.”<sup>157</sup> Because Grigsby and BRNext registered with the Board of Ethics and because Grigsby stands to benefit from Sexton’s “nonperformance,” this relationship is a violation of rules. In addition, as a civil service employee, the ethics administrator is expected to work at least 40 hours a week and can earn from \$47,570 and \$119,267 a year.<sup>158</sup> It is questionable that Sexton can maintain a law firm, servicing clients like Grigsby, and act full-time as Ethics Administrator.

During this study, the Louisiana House of Representatives approved a bill to restrict the legal practices of Sexton outside of his state work. This came as a result of a

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<sup>155</sup> Civil Service Rules 14.1 (e) 1,4

<sup>156</sup> Louisiana Board of Ethics Rules 111C(1)

<sup>157</sup> Louisiana Board of Ethics Rules 111C(2)(d)

<sup>158</sup> Louisiana Civil Service website at [www.dscs.state.la.us](http://www.dscs.state.la.us)

March 2006 dispute in which members of the Jefferson Parish Council sought Ethics Board intervention when Lane Grigsby's Cajun Constructors hired Kyle Associates (a company in which Grigsby held a 26% interest in) to inspect their work building safe houses for east bank pump operators. Sexton appeared before the council as Grigsby's attorney, not as Ethics Board chief. He was also a registered agent for both Cajun Constructors and Kyle Associates at the time.<sup>159</sup>

Whether or not Sexton's relationship with Grigsby affected his role as Ethics Administrator in the case of BRNext cannot be proven. The possibility and perception of unethical activity, however, is damaging to the electoral process and a direct violation of civil service rules.

In addition to problems with the structure of the oversight and enforcement agency, there are problems with the procedures of enforcement. As former Deputy General Counsel of the Louisiana Ethics Board, Maris LeBlanc, said, "Without someone filing a complaint it would be difficult to investigate and take action...It takes someone with knowledge to put it all together and point that out to [the Ethics Board]." According to the Board's procedure for filing complaints, "it takes a vote of at least eight [of 11] members of the Board to refer a complaint to investigation."<sup>160</sup> Complaints concerning election integrity must include a "receipt of a sworn statement by any voter

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<sup>159</sup> Bill Barrow, *Limits on Ethics Board Attorney Approved*, THE TIMES PICAYUNE, May 16, 2007.

<sup>160</sup> Procedure for Filing Complaints; Louisiana Ethics Administration website; updated July 30, 2001.

of this state alleging error, fraud, irregularity, or other unlawful activity in the conduct of an election..."<sup>161</sup> These requirements put a large burden of proof on average citizens.

This section has outlined the ways in which BRNext and Grigsby were able to inject a large amount of money into the 2004 election using various campaign finance loopholes in a vague campaign finance framework of laws. A lack of oversight by the Ethics Board and corporate contributions and loans, pseudo-issue advertising, and independent expenditures, Grigsby was able to open the electoral process up to at least the appearance of corruption. He used his corporate and personal wealth to contribute to and "loan" BRNext enough money to purchase large amounts of broadcast time to air ads that supposedly addressed issues but, in reality, were attacks on Simpson. He did so by creating a political action committee, projected to the public as a grassroots movement. The next section will discuss each particular loophole used by Grigsby, how each affects democracy, and how each might be prevented in the future.

### **BRNext and Democracy**

The case of BRNext strengthens the argument that people of wealth can possess a disproportionate voice in politics by either manipulating or simply ignoring campaign finance laws. As West argues in *Checkbook Democracy*, the courts "mistakenly have equated freedom of speech with freedom to spend."<sup>162</sup> Not only are interest groups and large corporations able to use financial leverage to affect elections, but one person of means can as well. The use of PACs, pseudo-issue advocacy, and campaign

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<sup>161</sup> Rules for the Board of Ethics and Supervisory Committee of the Louisiana Campaign Finance Disclosure Act 707 B

<sup>162</sup> DARRELL M. WEST, *CHECKBOOK DEMOCRACY: HOW MONEY CORRUPTS POLITICAL CAMPAIGNS* 171 (2000).

electioneering denigrates elections, causes cynicism and voter apathy, and hinders accountability (whether real or perceived) for elected officials.

The question of whether Grigsby's actions were in accordance with the law or in violation of it is a difficult one to answer. So far, this type of behavior has been permitted by loophole-ridden, vague, or unenforced laws. In terms of federal law, West contends: "What used to represent a reasonably clear set of rules for the game now has given way to a bewildering variety of tangled laws, confusing regulations, blatant loopholes, and selective enforcement of what guidelines remain"<sup>163</sup> resulting in "the toleration of big contributions from privileged elements within society..."<sup>164</sup> Those against campaign finance reform discount these claims and the notion that without reform economic inequalities give the wealthy a disproportionate share of influence in politics.<sup>165</sup> BRNext is evidence that this statement also holds true for Louisiana law.

The evidence in the case of BRNext and the 2004 mayoral election furthers the argument put forth by those in favor of further reform. By funneling money through a "non-connected" PAC, Grigsby was able to purchase large amounts of broadcast advertising time to air thinly veiled anti-Simpson commercials. In addition, he was able to hire a savvy, well-connected political consultant to man his attack against Simpson. Finally, as a wealthy individual he was able to hire a prominent attorney who is also administrator of the oversight and enforcement agency and could advise him of the

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<sup>163</sup> Id. at 165.

<sup>164</sup> Id. at 172.

<sup>165</sup> Charles T. McConville, *Muzzling the Mouthless Speaker: The Reform Community's Prescription for "Corporate Domination" in State Issue Campaigns*, 35 CAPITAL UNIVERSITY LAW REVIEW 245 (2006).

ways to legally circumvent the law. This section will discuss each of the areas addressed in the previous section, give suggestions for policy change, and draw conclusions about what this means for democracy.

**Corporate Donations and Unpaid Loans.** As outlined in the previous section, Grigsby and his various entities were able to contribute, through contributions and unpaid loans, more than \$450,000 to BRNext<sup>166</sup> in an effort to “shape people’s thought process.”<sup>167</sup>

It is problematic when people of wealth, especially people who own corporations that stand to benefit from close connections with elected officials, are allowed to put large amounts of money into affecting an election. It is problematic in terms of opening the door for political corruption and it is problematic in terms of political equality. When the democracy shifts from the logic of “one person-one vote” to the market logic of “may the highest bidder win,” the wealthy dominate and the poor are powerless. Money becomes an exclusionary mechanism for eliminating poorer candidates and muting the voices of poorer constituents.

How can this problem be solved? Is the answer more stringent financial restrictions? Grigsby said the reality of politics is that there are currently no financial restrictions: “When we hide from reality, we pretend that the situation is not what it really is. We are deluded and misguided. I will guarantee right now that the money, if you really want to, you can find out how to put it in...Most smart people try to do it

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<sup>166</sup> This was confirmed by Grigsby in an interview.

<sup>167</sup> Interview with Lane Grigsby, founder, BRNext, in Baton Rouge, La. (May 14, 2007).

completely legally. There are many loopholes.” He said he thinks efforts to safeguard against money’s corrupting power of politics are futile: “money and politics is kind of like trying to keep water in a straw basket. You can run around and put a piece of gum on that leak and its going to come out somewhere else. Money is gonna come out in politics...You are not going to get the influence of power and money out of politics. It’s just not going to happen.”

One solution provided on the federal level, however, has been a ban on corporate contributions. Had this been in effect in Louisiana, it would have been more difficult for Grigsby to put so much money into the election. In addition to contributions, corporate loans should be prohibited and personal loans should be limited to contribution limits, require greater disclosure of information, and be monitored to ensure they are paid back.

**Issue Advocacy.** As stated previously, Grigsby was able to use the money funneled into BRNext to purchase \$311,963.61 worth of advertising and media time. The ads, which avoided words of “express” advocacy, were not subject to the same disclosure and contribution limits as coordinated expenditures.

This example illustrates that the vague differentiation between express and issue advocacy is meaningless on the ground level. As in the case of BRNext, the current law allows individuals and groups to spend unlimited amounts on pro- and anti- candidate campaigns by avoiding key words. Disclosure requirements of the past no longer provide sufficient accountability for today’s political activity. As Grigsby said, “The

political process is evolving more rapidly than it used to. We are the age of information. The influx of the speed of transmission of information is going to alter the process of selection of our leadership. People of means are now understanding how to use the power of their means in a more effective manner.”<sup>168</sup>

It has been difficult to solve this problem without infringing on free speech of groups that truly wish to address *issues* of concern. Some suggest addressing the issue of *where* the money comes from, rather than scrutinizing the purpose of the message. They suggest corporations should be barred from paying for issue advocacy with funds from the corporate treasury. Instead, advocacy should be paid for with funds obtained from voluntary contributions and kept separate from the organization’s general treasury.<sup>169</sup> Others argue that the answer is allowing more money into the system by way of campaign contributions. They argue that “to reduce issue advertising as a way to bring greater accountability to elections (i.e., making it easier for voters to know who is paying for advertising), then perhaps existing restrictions on candidate contributions should be removed.”<sup>170</sup> This suggestion, however, seems like a trade-off of one evil for another.

More promising is West’s suggestion that would require issue ads to keep sponsor identification visible for the duration of the advertisement. In addition, West suggests ads listing of the people who primarily fund the “organization.” He says,

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<sup>168</sup> Interview with Lane Grigsby, founder, BRNext, in BatonRouge, La. (May, 14 2007).

<sup>169</sup> “*New Realities, New Thinking*”: Report of the Task Force on Campaign Finance Reform, 30 POLITICAL SCIENCE AND POLITICS 487 (1997).

<sup>170</sup> Robert E. Hogan, *State Campaign Finance Laws and Interest Group Electioneering Activities*, 67 JOURNAL OF POLITICS 887 (2005) at 904.

“Hiding behind nebulous organization names like Citizens for Reform tells voters nothing about the messenger. It matters who pays for ads and is behind the political activity they urge.”<sup>171</sup>

West takes this a step further and suggests that candidates should receive free airtime in exchange for voluntarily accepting spending limits.<sup>172</sup> Such free airtime has shown promise in other countries. For example, public broadcasters in France and Britain have an obligation to give free airtime to politicians during elections. In France, the government allots each candidate and party an equal amount of free time on radio and television.<sup>173</sup> Similarly, in Britain, broadcasters make a joint offer of free airtime to the principal political parties. In exchange for this time, “neither political parties nor individual candidates are allowed to buy time for political advertising.”<sup>174</sup> Such free airtime would reduce candidates’ dependence on private money and the use of pseudo-issue advocacy to corrupt the process. Such a suggestion was made by the defeated 2003 McCain-Feingold bill which required all television and radio stations to air a minimum of two hours a week of programming centered on the election, each election cycle. It also required stations to provide a limited amount of free advertising time to qualified candidates. Paul Taylor, former *Washington Post* reporter and founder of Free TV for Straight Talk Coalition, “insists that free airtime is the most efficient and practical way to reform how this nation finances its political campaigns, since paying

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<sup>171</sup> DARRELL M. WEST, CHECKBOOK DEMOCRACY: HOW MONEY CORRUPTS POLITICAL CAMPAIGNS 186 (2000).

<sup>172</sup> *Id.* at 174.

<sup>173</sup> Patrick Basham, *The Illiberal Reality of European-Style Campaign Reform*, THE CATO INSTITUTE (March 13, 2002). Available at [www.cato.org/pub\\_display.php?pub\\_id=3417](http://www.cato.org/pub_display.php?pub_id=3417)

<sup>174</sup> Richard Somerset, *Public Interest Obligations in Broadcasting: International Comparisons*, 1 COMMUNICATIONS POLICY & PRACTICE (April 16, 1999).



for airtime is what so inflates campaign cost.”<sup>175</sup> In addition, Taylor says it is a way to “wean the political system from so-called ‘soft money.’”<sup>176</sup>

**“Independent” Expenditures.** As explained previously, BRNext was able to avoid candidate contribution limits by registering as a non-connected PAC. Its expenditures, therefore, were deemed “independent,” rather than coordinated expenditures. Despite this “independent” label, the BRNext and Holden campaigns made multiple payments to the same consulting firms.

Grigsby highlighted problematic characteristics of “independent” expenditures. He pointed out that where previously PACs began under the idea that a consensus would be formed among many people, in order to help make choices that were beneficial to all, they now serve as fronts for independent expenditures. In the case of BRNext, Grigsby said, “I was the consensus.” He also said in this new generation, “I don’t need to spend the time going out and getting a big group consensus to come give me money, because when you collect a group and lead them on a mission, it’s kind of like being a pastor in a church, there’s always someone in the congregation that doesn’t like the message...So, the fewer you have to please, the better the message is received. So by not getting as many people into decision-making roles by way of their checkbook, I am a lot freer.”<sup>177</sup>

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<sup>175</sup> Joe Holley, *The Solution: Free Airtime*, COLUMBIA JOURNALISM REVIEW (May/June 1997). Available at <http://backissues.cjrarchives.org/year/97/3/freeair.asp>.

<sup>176</sup> Paul Taylor, *Clean up Politics with Free Airtime for Ads*, 68 ADVERTISING AGE 30 (April 28, 1997).

<sup>177</sup> Interview with Lane Grigsby, founder, BRNext, in BatonRouge, La. (May, 14 2007).

This one-man consensus is not only problematic in terms of political equality, but also in terms of disclosure when it is projected to the public as a grassroots movement comprised of people from the community. BRNext's first commercial said, "We are BRNext; A group of people just like you; in search of answers; in search of leadership."<sup>178</sup> That is very different from the way Grigsby described BRNext. This raises the question, had BRNext been subject to greater disclosure, revealing BRNext (AKA Grigsby) to the public as it truly was, would the public have accepted its message in the same way? Is it the intent of the democratic process to allow one individual to use his money to "derail the election bids of candidates they don't like?"<sup>179</sup>

When questioned about the ethics of this, Grigsby echoed the sentiment put forth by the Court in *Montana Chamber of Commerce v. Argenbright*<sup>180</sup> when he said it is the responsibility of the public to "discern between good and evil." He blames uneducated voters for falling prey to the promises of dishonest politicians: "Our problem with democracy is that uneducated, uninformed, poor people have learned that they can improve their lot in life by voting themselves a raise from the public treasury."<sup>181</sup>

If, according to Grigsby, the public is responsible to be more informed, how can they do so when the information is not readily available? With the proliferation of these new political actors and new routes for covert candidate spending, it is imperative that disclosure requirements be broadened and strengthened. It is necessary for enforcement

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<sup>178</sup> Commercial: TV Spot 1- Introduction (Available at [www.brnext.org](http://www.brnext.org))

<sup>179</sup> Marsha Shuler, *Third-parties' Nasty Attacks Signal Trend*, THE ADVOCATE, January 17, 2007.

<sup>180</sup> Citing *Austin v. Michigan Chamber of Commerce*, 494 U.S. 652, 661 (1990)) at 600. The Court said, it "is up to the voters to determine whether they approve or disapprove of a corporation's point of view."

<sup>181</sup> Interview with Lane Grigsby, founder, BRNext, in Baton Rouge, La. (May, 14 2007).

agencies to identify these supposedly non-connected PACS, which are operating like candidate committees, and hold them to the correct contribution and disclosure requirements. Also, as West suggests, when broadcasting advertisements these groups should be required to list major contributors. In this way, the public can identify these groups as they are and choose whether to accept or reject their messages.

**Oversight/Enforcement.** Finally, the case of BRNext is an extreme example of the failure of the oversight and enforcement agency to even keep up the appearance of a functioning check on the system. While it is unlikely that Sexton is personally connected with every PAC in Baton Rouge, his relationship to Grigsby sheds a light on the system's potential for corruption. Beyond the extracurricular activities of agency members, lies the problem of agency protocol. This system of relying on lay people to research and report violations in order to bring about investigation is totally ineffective. Such nonperformance is detrimental to democracy. Without proper oversight and enforcement, campaign finance laws are meaningless. The system requires scrupulous enforcement. The oversight and enforcement agency must be structured in a way to foster and oversee ethical behavior. In addition, the enforcement agency must not only be empowered to levy severe penalties for the violation of the law, but must also *actively* monitor campaign on goings.

In the case of BRNext, there are specific requirements that would have aided the Ethics Board in overseeing financial activity. First, in addition to reporting expenditures and contributions, had receipts with more information been submitted, identification of

unethical behavior would have been more plausible. If the Ethics Board had been given the authority to demand detailed financial records when necessary, it would have been more probable that the agency would identify when money was handled in an illegal or unethical manner. Also, had the rules regulating members of the oversight and enforcement agency from managing political activities outside of the office been enforced, then the Ethics Administrator's relationship to Grigsby would not raise such ethical questions.

In conclusion, to protect the integrity of democracy, Louisiana campaign finance law requires reform. It requires, at the very least, a ban on corporate contributions and expenditures, stronger contribution and loan limits, more detailed disclosure requirements, and more active oversight and enforcement.

### **Protecting the Future of Democracy**

BRNext is an example of how wealthy corporations and individuals dominate the political discourse in America today, opening the door to "corruption and the appearance of corruption."<sup>182</sup> As Raskin said, this "involves a massive structural bias in government favoring the parochial interests of corporate and personal wealth over the interests of those citizens lacking access to such wealth."<sup>183</sup> As outlined in *Buckley* this corruption justifies the compelling governmental interest to further restrict campaign finance. The argument that money is speech is insufficient reason to allow such

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<sup>182</sup> *Buckley v. Valeo*, 424 U.S. 1, 26 (1976).

<sup>183</sup> Jamin Raskin, Associate Professor of Law at The American University, Letter to the BOSTON REVIEW (1993), <http://bostonreview.net/BR18.3/forum.html>. Commenting on Ellen Miller's *Money, Politics and Democracy*.

corruption to exist. While it is true that sometimes money is necessary to purchase certain avenues for speech, such as television airtime, if speech can only be bought then it is no longer free. When speech can only be bought, those without wealth are left speechless. Democracy is not for sale. When it is put on the auction block of the marketplace, as it is currently, it is bought up by the wealthy and powerful, resulting in a superficial democracy where there is less speech, less diverse speech, corruption, and apathy. Acknowledge more. Whereas on one side you have those who argue for a sort of social Darwinism with the unfettered marketplace of ideas, the other side is for a more diverse marketplace, idea of egalitarianism.

This problem is not going away. In a very recent ruling, in *FEC v. Wisconsin Right to Life* (WRTL),<sup>184</sup> the U. S. Supreme Court struck down certain applications of the BCRA's restriction on issue advocacy communications, an attempt to prohibit corporations from purchasing such communications with general (non-PAC) funds. In his dissent, Justice Souter argued:

Devoting concentrations of money in self-interested hands to the support of political campaigning therefore threatens the capacity of this democracy to represent its constituents and the confidence of its citizens in their capacity to govern themselves. These are the elements summed up in the notion of political integrity, giving it a value second to none in a free society.

He continued by writing that campaign finance reform evidences that political corruption is not limited to quid-pro quo political corruption, and that political integrity is

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<sup>184</sup> *FEC v. Wisconsin Right to Life*, No. 06-969, 466 F. Supp. 2d 195 aff'd, U.S. 2007.

most threatened by the “pervasive distortion of electoral institutions by concentrated wealth, on the special access and guaranteed favor that sap the representative integrity of American government and defy public confidence in its institutions.”<sup>185</sup>

Whether or not the aforementioned policy changes would resolve these problems resulting in a more ethical and level political playing field is up for debate. There are those that believe like Justices John Paul Stevens and Sandra Day O’Conner, “Money, like water, will always find an outlet.”<sup>186</sup> Grigsby echoed Stevens and O’Conner’s sentiment when he said, ““Politics and money are just like water and air. You can’t keep water and air out of things. If there are little holes or open areas, they’ll find out where that little opening is. The mother milk of politics is money.”<sup>187</sup> West argues that “[u]ntil the courts recognize the need to balance freedom of expression with the equally important principles of openness, fairness, and equitable electoral competitions, there can be no meaningful reform.”<sup>188</sup>

If something is not done soon, however, cases such as BRNext will become commonplace. Long before BRNext, Grigsby said he started in parish politics. Now he intends to go statewide. He said, “I’ve been involved in 70 legislative races. Through various PACs...I get PACs for everything...” He said he began affecting elections in 1988 when he helped oust Pat Screen as mayor. Since then, he said he used his PAC Business Congress of Louisiana to try to affect the 2004 Governor’s race.

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<sup>185</sup> Id. in dissenting opinion.

<sup>186</sup> *McConnell v. Federal Election Com’n*, 540 U.S. 93, 124 S. Ct. 619 (2003). In majority opinion.

<sup>187</sup> Interview with Lane Grigsby, founder, BRNext, in Baton Rouge, La. (May, 14 2007).

<sup>188</sup> DARRELL M. WEST, *CHECKBOOK DEMOCRACY: HOW MONEY CORRUPTS POLITICAL CAMPAIGNS* 173 (2000).

As of this study, Grigsby and BRNext are under investigation by the Ethics Board for supposed collusion in the 2006 Senate race. In an interview Grigsby said, “I recruited Dr. Bill Cassidy to run for senate. So, I was gonna give him a little bit of help.” Grigsby said he “whacked” Cassidy’s opponent, William Daniels, with \$20,000 worth of mailouts publicizing his divorce.<sup>189</sup> In December 2006 Daniels filed a complaint with the Ethics Board alleging that Cassidy and BRNext illegally colluded in violation of state campaign laws. Despite Grigsby’s comment that he “recruited” Cassidy and that he “was gonna give him a little bit of help,” Cassidy denied any connection with the BRNext mailouts.<sup>190</sup> Once this investigation is resolved, Grigsby said he would like to affect state-wide politics with his new PAC LANext.

In 2007, Grigsby took a full-page advertisement out in *The Advocate* newspaper soliciting candidates to run against state Representative Bodi White. In an interview with *The Advocate* Grigsby said he was angry with White for a pro-union vote on plumbing legislation. White argued that he was voting for his constituency.<sup>191</sup> Grigsby said he was just putting the “first spotlight on the first cockroach.”<sup>192</sup> In another interview, when asked about safeguarding democracy against the corrupting-power of money, Grigsby said, “I’m gonna tell you, third parties are here. You can leverage a dollar beyond belief. Can it be used viciously and mean-spiritedly? Yes! It will be! I’m not policeman of the world.”<sup>193</sup>

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<sup>189</sup> Interview with Lane Grigsby, founder, BRNext, in BatonRouge, La. (April, 25 2007).

<sup>190</sup> Marsha Shuler, *Candidate Daniel Files Ethics Complaint on Fliers*, THE ADVOCATE, December 7, 2006.

<sup>191</sup> *BR Contractor Prepares for Race*, THE ADVOCATE, May 27, 2007.

<sup>192</sup> Seth Fox, *Grigsby Attacks Rep. Bodi White in Ad*, THE BATON ROUGE BUSINESS REPORT, May 21, 2007.

<sup>193</sup> Interview with Lane Grigsby, founder, BRNext, in Baton Rouge, La. (May, 14 2007).

While there will always be those like Grigsby that try to exploit or even violate the system, however, it is the job of the government to attempt to protect and ensure the right to open, fair, ethical, and equitable elections. It is imperative that laws protect against “the corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public’s support for the corporation’s political ideas.”<sup>194</sup> Because politics, elections, and campaign financing are forever changing, the laws must continue to adapt to include new actors and financial avenues and ensure that those without money still have a voice. BRNext is evidence that the laws of the past are ineffective in today’s campaign finance environment. The government should and must protect elections from wealthy hijackers. Regulation alone, though, is not a panacea. To have an open, fair, ethical, and equitable democracy requires an electorate that is committed to such an ideal and will thus demand that campaign finance laws are not just passed by legislatures, but enforced by accountable oversight bodies.

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<sup>194</sup> *Id.* at 654, 659-60.



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