

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CONGRESSMAN RON PAUL, <i>et al.</i> ,)	
Plaintiffs,	)	CIVIL ACTION NO. 02-CV-781
	)	(CKK, KLH, RJL)
)	
v.	)	Consolidated with
	)	CIVIL ACTION NOS.
FEDERAL ELECTION COMMISSION, <i>et al.</i>,	)	02-CV-582 (CKK, KLH, RJL) (Lead)
	)	02-CV-581 (CKK, KLH, RJL)
Defendants.	)	02-CV-633 (CKK, KLH, RJL)
	)	02-CV-751 (CKK, KLH, RJL)
	)	02-CV-753 (CKK, KLH, RJL)
	)	02-CV-754 (CKK, KLH, RJL)
	)	02-CV-874 (CKK, KLH, RJL)
	)	02-CV-875 (CKK, KLH, RJL)
	)	02-CV-877 (CKK, KLH, RJL)
	)	02-CV-881 (CKK, KLH, RJL)

DECLARATION OF CARLA HOWELL

Carla Howell, a plaintiff in the above-referenced action, declares the following, pursuant to 28 U.S.C. § 1746:

1. I am Carla Howell. I am an adult citizen of the United States of America and the Commonwealth of Massachusetts. I am a registered voter in the Commonwealth of Massachusetts, eligible to vote in all federal elections.

2. I am the Libertarian Party candidate for Governor of the Commonwealth of Massachusetts in the 2002 election that will be held this November. My campaign is focused on promoting and educating the public about various policy issues and ideas, including reducing the size of government, abolishing the state income tax, and reclaiming personal liberties that have been eroded or eliminated by the policies of the two so-called “major”

parties and my opponents. My goal is not merely to win office, but also to support the initiative on the ballot in Massachusetts this November to abolish the state income tax, and to promote the Libertarian Party philosophy to the public so others who share this philosophy can be elected to federal and state office and/or inspired to work towards instituting Libertarian principles.

3. I was the Libertarian Party candidate for election to the United States Senate from the Commonwealth of Massachusetts in the 2000 election. Regardless of the outcome of the 2002 election for governor, I have every intention of remaining active in Massachusetts politics, and of running again for federal office.

4. I have been a member of the Libertarian Party for six years, and in addition to my candidacies for governor and senator, I am now, and have been, an active supporter of other Libertarian Party candidates. I intend to participate in federal and state elections in the future as a candidate and/or as an active supporter of a candidate. I have accepted, do accept, and intend to continue to accept, campaign contributions. In short, I have an abundance of first-hand experience in dealing with the “real world” impact that the Federal Election Campaign Act (FECA) has caused, and that the FECA as amended by the Bipartisan Campaign Reform Act (BCRA) will cause to challenger candidates for state and federal office, especially those who, like me, represent a “third-party.”

5. In 2000, as Libertarian Party candidate for election to the United States Senate from the Commonwealth of Massachusetts, I received funds from the national Libertarian Party that made it possible for me to get my name on the ballot. Additionally, I raised approximately \$821,362 in funds, received 308,860 votes, and ran nearly even with my

Republican Party opponent. My United States Senate campaign was the #1 “third-party” senatorial campaign in America in 2000 according to measures set by *Campaigns and Elections Magazine*. In my campaign, we were hindered greatly by the onerous financial and time burdens attendant with demonstrating to the FEC our compliance with the FECA, and the law restricted my resources to run a campaign, and regulated my spending.

6. In 2002, as the Libertarian Party’s candidate for the Governor of Massachusetts, my campaign’s centerpiece is The Small Government Act to End the Income Tax ballot initiative that I and others succeeded in getting on the statewide Massachusetts ballot this November to abolish the state income tax. Just to get the state income tax initiative on the ballot, we had to obtain a total of at least 66,617 verified petition signatures from the citizens of Massachusetts. Recent polls show that about 40 percent of the public supports this initiative and that support is continuing to grow despite almost uniform opposition from the Republican and Democrat parties and the Massachusetts media.

7. In working with other Libertarian Party candidates for state and federal office in the past, I have learned how to maximize my limited resources and take advantage of economies of scale. In my 2000 campaign for the United States Senate, for example, I had to spend approximately \$150,577 to pay for television ads and approximately \$50,894 in radio ads. I must necessarily conserve my limited funds by various means, including coordinating my campaign efforts with those of other state and federal Libertarian Party candidates. For example, in the current election cycle Michael Cloud, the Libertarian Party candidate for United States Senator from Massachusetts, and I, the Libertarian Party candidate for governor, have mailed out our respective campaign bumper stickers in one envelope and split the cost of

the mailing. We have submitted our respective campaign literature for printing as one large job to get a more favorable large scale price, with each of us bearing our share of the reduced cost. It is my understanding that the BCRA limitations on use of “soft money” donations to political parties may interfere with, or even prohibit outright, such coordinated state and federal candidacy efforts, imposing significant civil and criminal penalties for violating the new rules on the use of soft money by state candidates in what the BCRA defines as federal election activity.

8. My campaign for governor does not receive the media exposure accorded the campaigns of the “major” parties. The commercial media, in Boston, Massachusetts in particular, are not disinterested, objective non-partisan voices of the common good, above the electoral process. Rather, they are active partisans that support their candidates and issues of choice by a variety of means, including favorable news articles about their preferred candidates, and either attacks in news articles, or refusal to provide coverage, about those they oppose. In addition to news stories, they use editorials and commentaries to advance their partisan objectives.

9. The FECA/BCRA is devastating to third-party challenger candidates such as me who advocate change, because it codifies the advantages of incumbency and fosters a “government by media.” By exempting media from the FECA/BCRA licensing and regulatory restrictions, the commercial media corporations and other entities are endowed with special privileges to express views about candidates and issues, and are immunized from any threat of penalty or court action for having supported those views with funds unlimited by federal law.

10. To appreciate how perniciously the FECA/BCRA affects me, a Libertarian

candidate, it is necessary to understand how the FECA/BCRA exacerbates the difficulties that challengers such as me already face just to participate in an election. I have read and agree with the Expert Witness Report of Perry Willis that was previously prepared in this action. It discusses some of the difficulties faced by challengers in general, and Libertarian party candidates in particular. My personal experience as a candidate for federal and state office, and as an active supporter of other candidates for federal office and state office, confirms Mr. Willis' conclusion that the federal campaign finance laws do not improve the electoral process. In fact, despite professed intentions of leveling the playing field, the FECA/BCRA worsens the electoral process by further enhancing the advantages of incumbents and the unchecked power of the established corporate media to make or break the candidate as they see fit, and to act as a cartel in control of election communications. (*See* Report of Perry Willis, ¶ 3).

11. For third-party candidates, such as me, commercial media blackouts and/or distortions are an all too-familiar experience. For example, in Massachusetts a cadre of commercial media corporations comprised of the *Boston Globe*, New England Cable News, and four television stations, WGBH, WCVB, WHDH, and WBZ, decided which gubernatorial candidates were invited to the Governor's Debates broadcast live on all major Boston area television stations. Despite the fact that I am the Libertarian Party nominee for governor, the leader of the successful effort to place The Small Government Act to End the Income Tax on the statewide ballot, and despite my strong showing in the 2000 campaign for the United States Senate, the news media has excluded me from participating in at least three debates so far.

12. The mass media decision to exclude me from participation in the debates demonstrates that the media have their own political bias and agenda which does not include

presenting to the public the ideas of Libertarian candidates, as the *Boston Globe* itself acknowledged on June 16, 2002: “With precious few allies in the media and on Beacon Hill, the Libertarian Party is going directly to the people with its campaign to abolish the income tax in Massachusetts.” <http://www.boston.com/dailyglobe2/167/metro/>. My campaign’s effort must overcome the commercial media’s superior position in the marketplace of ideas, and that takes money.

13. In my 2000 campaign for the United States Senate, it cost approximately \$60,000 just to qualify to get my name on the ballot. As a Libertarian challenger, I had to overcome a lack of name recognition in order to secure the minimum of 10,000 verified signatures to be qualified to appear on the ballot. Media exposure, of course, is the best way to get name recognition. In my experience, however, the partisanship of the commercial media corporations makes it very difficult for Libertarian candidates to get the needed exposure, let alone have their message presented in an unbiased way. At the same time, the partisanship of the commercial media corporations in Massachusetts makes it relatively very easy for candidates of the Green Party, a party that is the fraction the size of the Libertarian Party and which has a fraction of the track record for winning votes and supporters as the Libertarian candidates have, to get exposure and to have their message presented in a positive way. This has been demonstrated to such an extreme that it may well have caused the Green Party candidates to legally qualify for the November ballot where they would otherwise have failed. The special privileges and immunities that the FECA/BCRA grants to commercial media organizations serve to further burden and discourage Libertarian candidates from participating in the electoral process. Commercial media organizations already wield an

enormous amount of power with regard to how, and even if, they cover a particular candidate. The FECA/BCRA assumes that the commercial media are fonts of impartiality and provides them with special privileges that are denied to me and other individuals. From my experience, I know that assumption is unfounded and prejudicial to my efforts as a candidate.

14. Even news reporting can be and has been used by the commercial media to advance or hinder a particular candidate. For example, the *Boston Herald* obtained data about donors that I, as a United States Senatorial candidate, was required to disclose to the FEC, and then ran an article about out-of-state donors to my campaign. The Boston Herald “reported” that one (of thousands of such donors) claimed to have also donated funds to David Duke, a former Ku Klux Klan member. As a matter of personal conscience and as a member of the Libertarian Party, the Ku Klux Klan is anathema to me. The salient point, however, is that a purported “news” report based on public donor data was actually an effort to smear me by linking me to David Duke, in what was no doubt alleged to be a “news story” so that it would be exempt under the FEC’s rules.

15. This type of misuse of public donor data underscores the harmful effect of the type of mandatory reporting and disclosure requirements in the FECA/BCRA. I am categorically opposed to compelling donor disclosures under the FECA/BCRA, not only because such information can be, and has been, misused, but also because it invades the privacy of the donor and discourages individuals from participating in campaigns. The FECA’s mandatory disclosure donor requirements caused me to receive less financial support during my 2000 campaign for the United States Senate than I otherwise would have received. This resulted in me having less money to spend than I otherwise would have had. There were

approximately 52 contributors to my campaign that gave the maximum amount permitted by the FECA. At least 30 of these donors were likely to have contributed even more to my campaign but for the limits imposed by the FECA.

16. Similarly, there were many contributors who shared my views, but who, for fear of having their support disclosed publicly or violating the FECA, did not contribute as fully to my campaign as they would otherwise if their privacy could be protected. There were 5,216 contributors to my 2000 campaign for the United States Senate who contributed in amounts below that which triggers the FECA's mandatory contributor disclosure requirements so that their anonymity could be maintained. As a matter of principle, some of these donors did that to act on their belief that the government has no right to know whom they support for a particular office. Thus, there were donors that wanted to elect me to the Senate because of my Libertarian commitment to protecting individual privacy, but did not want to compromise their privacy to do so.

17. The FECA wrongly made, and continues to make, the surrender of privacy the price for providing political support beyond an arbitrary level. There is an inherent illogic in the way that the federal election laws deal with anonymity. When I vote, I am guaranteed anonymity. This enables me to vote my conscience without fear of retribution. Inexplicably, however, the FECA/BCRA expressly prohibits anonymity in the campaign process. It is my firm belief that contributors to a campaign are entitled to the same anonymity as voters, not less.

18. Other contributors to my campaign wanted their anonymity maintained because they feared reprisals by the entrenched major parties. A shocking example of this occurred last

year, and involved Richard Egan, who now serves as the Ambassador to Ireland. Mr. Egan had previously donated \$2,000 to my campaign for the United States Senate against the incumbent, Edward Kennedy. Incredibly — although perhaps not unexpectedly — during Senate consideration of his nomination, Senator Kennedy (D-MA) cited Mr. Egan's donation to my campaign as a basis for questioning Mr. Egan's fitness to serve as an ambassador. It is no wonder that persons supporting candidates think twice before giving money in a way that is revealed to the public.

19. Other donors restricted their donations to my campaign to maintain their anonymity so that the government would not know of their support for my Libertarian positions on issues such as taxation, so-called gun control, and legalization of drugs, where powerful government agencies like the IRS, BATF, and DEA, are perceived as taking a dim view of those who question their activities, and who have broad discretion to investigate their political adversaries, and the reputation of doing so.

20. Thus, the FECA/BCRA continues to add barriers to entry for new candidates for federal office. The financial and reporting burdens imposed by the FECA/BCRA strain my already limited resources to the breaking point. The FECA's financial and reporting burdens include (i) the burden to register an authorized campaign committee with the Federal Election Commission; (ii) the burden to file periodic reports with the FEC of receipts and disbursements that are then subject to inspection by the public; (iii) the burden to adhere to limitations on the amount of individual contributions; (iv) the burden to report the names, addresses and occupations of contributors who give certain amounts that are also open to inspection by the public; and (v) the burden to maintain records on my campaign's activities.

21. The provisions in BCRA have, and will continue to have, a similarly debilitating impact on me and other third-party candidates. As stated in paragraph 5 above, I received funds from the national Libertarian Party during my 2000 campaign for the Senate that allowed me to get on the ballot. That financial assistance was crucial. Under the BCRA (*see* Section 101(a)), however, that type of assistance may be outlawed or practically impossible pursuant to the BCRA's prohibition against national party committees from soliciting, receiving, or directing "soft money."

22. I am astonished that the FEC takes the position that its personal use regulations prohibit my campaign from deciding how to spend its money, and certainly the BCRA, with its personal use provisions, purports to dictate how money contributed to my campaign committee is spent. For example, one of the categories that is covered is clothing. I am not personally wealthy, having taken sabbaticals from work to campaign, and using up much of my savings in the process. When I work it is from home as a consultant; therefore, my personal wardrobe is limited and is nowhere near what is expected of a person who is a candidate for federal office, especially a woman. Under the BCRA I would be unable to use campaign funds to purchase clothes necessary for my campaign, but unnecessary for me personally. I view my clothes for personal appearances as the equivalent of a uniform I must wear. It is outrageous that it would be a federal crime or violates federal law to "knowingly and willfully" buy a suit and matching accessories from campaign funds. My experience has been running against incumbents who are well paid and receive their salaries even for the time they are campaigning full time for re-election. These incumbents have made it illegal for a campaign to pay a stipend to a candidate to compensate him or her from time taken from work. While I may choose not to accept such

a stipend, it should not be illegal to spend campaign money in the way the campaign believes necessary. The same is true of other expenses, such as makeup which is reasonably expensive and usually necessary for me only because I am running for office. Whether it be a dress, a stipend, or cosmetics, how dare incumbents write a law enforced by federal prosecutors which regulates how my campaign spends its money to get me elected, all the while the incumbents are receiving large government salaries? Certainly, this law, like other provisions of the FECA/BCRA at issue in this case, wrongfully infringe upon my First Amendment activity.

23. I intend to continue to express my opinions about the actions and positions of clearly-identified candidates for federal office in the future as part of my continuing efforts to have the public consider my ideas and the Libertarian Party's philosophy. I want to be free of the mandatory licensing burdens imposed by the FECA/BCRA. I want to be free from the mandatory limitations upon individual financial contributions. I want to be free from the mandatory burden of having to report the names, addresses and occupations of donors to my campaign. I want to be free to campaign for federal office, and to support the campaigns of others, free from the editorial control and discriminatory burdens imposed by the FECA/BCRA. In sum, I want to be free to communicate in an unrestricted manner with the public and to allow the public to judge the extent to which they want to support my candidacy and my ideas without concern that I will be committing a crime for speaking my conscience, and without compromising the privacy of those who support me.

I declare under penalty of perjury that the foregoing is true and correct.

Carla Howell
Carla Howell

Executed on: Oct 3, 2002