

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

GREEN PARTY of Connecticut,)
S. Michael DEROSA,)
The LIBERTARIAN PARTY)
of Connecticut,)
Elizabeth GALLO,)
Joanne P. PHILIPS,)
Ann C. ROBINSON,)
Roger C. VANN)

Plaintiffs,)

v.)

Civil No. 3:06-01030 (AWT)

Jeffrey GARFIELD,)
in his official capacity as)
Executive Director and General)
Counsel of the State)
Elections Enforcement Commission,)
Richard BLUMENTHAL, in his)
official capacity as Attorney General)
of the State of Connecticut,)

Defendants.)

AMENDED COMPLAINT (INJUNCTIVE RELIEF SOUGHT)

I. INTRODUCTION

1. This case challenges the constitutionality of certain Connecticut statutes as enacted and amended by “An Act Concerning Comprehensive Campaign Finance Reform for State-Wide Constitutional and General Assembly Offices,” approved December 7, 2005, and further amended by “An Act Concerning the Campaign Finance Reform Legislation and Certain Election Law and Ethics Provisions,” approved June 6, 2006 (“Amendments”). Conn. Gen. Stat. §§ 9-333a to -333n, -700 to -717 (2006) (collectively, the “Act”). The Act establishes, *inter alia*, a “Citizens’ Election Program” to provide for public financing of campaigns for state legislative and executive offices

beginning in 2008 for some offices and 2010 for other offices. *Id.* §§ 9-702, -703. In order to receive public campaign financing, candidates must meet certain thresholds, including collection of specified amounts of “qualifying contributions.” *Id.* §§ 9-702(b), -704. In return, participating candidates agree to limit their campaign spending to amounts specified in the Act for each phase of the campaign – pre-primary, primary and general election. *Id.* § 9-702(c). Effective December 31, 2006, the Act also bans certain types of campaign contributions by “communicator lobbyists” (and by their families), and by the officers, directors and some employees of state contractors and prospective state contractors (and by their families). *Id.* §§ 9-333l(h)-(i), -333n(g)-(j).

2. The public financing system created by the Act violates the Speech and Association Clauses of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution by effectively excluding participation by minor and petitioning party candidates through unduly burdensome eligibility requirements. The qualifying thresholds are established at levels that inevitably prevent participation by minor and petitioning party candidates. Moreover, under the Act, participating candidates may continue to raise and spend unlimited (state executive offices) or substantial (state legislative office) amounts of money through their political parties and legislative leadership and caucus committees. Conn. Gen. Stat. §§ 9-333b(b), 333c(b) (2006). This exacerbates the disparity created by the qualifying thresholds. Under these provisions, major party candidates are effectively freed from the one condition – *i.e.* spending limits – that is claimed as the justification for the government’s decision to fund campaigns of major party candidates.

3. The public financing system is structured in a way that suppresses electoral speech of non-participating candidates in at least two additional ways. First, candidates who are unable to qualify for (or choose not to participate in) the public financing system are penalized if they raise or spend more money than their publicly financed opponents. Participating candidates are paid an additional subsidy equal to twenty-five percent (25%), of the original grant once a non-participating candidate raises or spends an amount equal to ninety percent (90%), of that initial grant. Conn. Gen. Stat. § 9-713 (2006). The subsidy to the participating candidate is thereafter increased incrementally in response to excess spending up to an amount not to exceed two hundred (200%), of the original grant. *Id.*

4. Second, non-participating candidates are penalized by a provision that pays a participating candidate additional subsidies equal to the value of any independent expenditure made with the intent to promote the defeat of that participating candidate. Independent expenditures made in support of a participating candidate do not affect that candidate's expenditure limits. Conn. Gen. Stat. § 9-714 (2006). These provisions not only burden a non-participating opponent, but also the independent speaker by triggering a government-financed response. This system of inducements and penalties improperly tilts the playing field in favor of participating candidates in a way that breaches the government's obligation to remain neutral.

5. The absolute bans on political contributions and solicitation of contributions by "communicator lobbyists" (and by their families), and by the officers, directors and some employees of state contractors and prospective state contractors (and by their families) violate those individuals' freedoms of speech and association, protected

by the First and Fourteenth Amendments, by directly curtailing their ability to engage in political speech and participate in the political process. *See* Conn. Gen. Stat. §§ 9-333l(h)-(i), -333n(g)-(j) (2006)

6. Plaintiffs seek a declaration that certain statutory provisions enacted and amended by the Act violate their rights of freedom of speech and freedom of association guaranteed by the First and Fourteenth Amendments to the United States Constitution, and their right to Equal Protection under the laws as guaranteed by the Fourteenth Amendment to the United States Constitution. Plaintiffs also seek permanent injunctive relief prohibiting the enforcement of these statutory provisions.

II. JURISDICTION AND VENUE

7. Plaintiffs bring this action under 42 U.S.C. § 1983 and also seek relief under 28 U.S.C. §§ 2201 and 2202 and 42 U.S.C. § 1988.

8. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a)(3) and 1343(a)(4).

9. Venue is properly within this district under 28 U.S.C. § 1391(b) because the defendants reside in this district.

III. PARTIES

Plaintiffs

10. Plaintiff Green Party of Connecticut (“Green Party”) is a statewide minor party committed to promoting grassroots democracy, social justice, non-violence and ecological wisdom. Since 1985, the Green Party has fielded eight-seven (87) candidates for elected office in Connecticut. In the 2006 election, the Green Party is fielding

candidates for state legislative and executive offices and plans to do so in future elections. The Green Party candidates will be unable to qualify for public financing under the Act.

11. Plaintiff S. Michael DeRosa (“DeRosa”) is a resident of Wethersfield, Connecticut and is a co-chair of the Green Party. In the past, he has been a Green Party candidate for state Senate and is currently the Party’s candidate for Secretary of State. He intends to run for state political office after December 31, 2006 and will be unable to qualify for public financing under the Act.

12. Plaintiff Libertarian Party of Connecticut (“Libertarian Party”) is a statewide minor party. The Party and its members oppose state regulation of political campaigns. It has fielded candidates for state legislative and executive offices and plans to do so in future elections.

13. Plaintiff Elizabeth Gallo (“Gallo”) is a resident of West Hartford, Connecticut and has lobbied before the state General Assembly since 1976. She has headed the government relations and lobbying firm Betty Gallo & Co. since 1981. She and her firm represent over twenty-five (25) clients before the General Assembly. In the past, Gallo has made donations to and solicited donations on behalf of campaigns of candidates for state executive and legislative offices. She has purchased tickets to candidate events and attended or hosted informal meet-and-greet gatherings where the hat is passed around. She intends to make donations to, and solicit donations on behalf of, such campaigns after December 31, 2006.

14. Gallo regularly provides clients with information about the effectiveness of legislators and advice concerning a candidate’s position on a particular issue. During

an election year she advises clients about which candidates to support or contribute to based both on their voting records and their election prospects.

15. Plaintiff Dr. Joanne P. Philips (“Philips”) is a resident of Colchester, Connecticut and is the wife of Donald D. Philips, a communicator lobbyist for the Connecticut Bar Association, a voluntary not-for-profit organization of lawyers dedicated to promoting public service and advancing the principles of law and justice. She has been a delegate to the Conventions of Senator Eileen Dailey and state Representative Linda A. Orange and is a member of the Colchester Democratic Town Committee, in which capacity she is expected to make and solicit donations each year. Philips was and is a volunteer co-manager of the campaign of Representative Orange, a position that requires her to solicit donations on behalf of the campaign. She has also donated to Representative Orange’s campaigns. After December 31, 2006, she intends to contribute to and co-manage Representative Orange’s political campaigns, and to remain a member of the Colchester Democratic Town Committee.

16. Plaintiff Ann C. Robinson (“Robinson”) is a resident of Monroe, Connecticut. Robinson is the Executive Director of Community Capital Fund (“CCF”), a not-for-profit corporation based in Bridgeport, Connecticut. CCF is a community development organization that promotes small business and affordable housing development. CCF receives the majority of its funding through federal and state grants. CCF is considered a state contactor under the Act based on two grants awarded by the Department of Economic and Community Development, an executive agency. The grants continue through 2007. In the past, Robinson has made contributions to state

candidates and to the political committees of environmental advocacy groups. But-for the new restrictions, Robinson intends to make such contributions in the future.

17. Plaintiff Roger C. Vann (“Vann”) is a resident of New Haven, Connecticut. He is the Executive Director of the American Civil Liberties Union of Connecticut (“ACLU-CT”) and is registered as a communicator lobbyist with the State. The ACLU-CT is a not-for-profit, nonpartisan membership organization with a mission to guarantee that the fundamental freedoms of the residents of Connecticut are preserved. The ACLU-CT does not receive any state funding. In the past, Vann has contributed to state candidates. But-for the new restrictions, he intends to make such contributions in the future.

Defendants

18. Defendant Jeffery B. Garfield (“Garfield”) is a resident of Connecticut and is the Executive Director and General Counsel of the State Elections Enforcement Commission (“Commission”). This action is brought against Garfield solely in his official capacity as Executive Director and General Counsel. Among the Commission’s duties are (i) the duty to administer and ensure implementation of the Citizens’ Election Program; and (ii) the duty to impose civil penalties upon violation of certain provisions of the Act. *See* Conn. Gen. Stat. §§ 9-7b, 333l, -701, -713, -714 (2006).

19. Defendant Richard Blumenthal (“Blumenthal”) is a resident of Connecticut and is the Attorney General of the State of Connecticut. This action is brought against Blumenthal solely in his official capacity as Attorney General. As Attorney General, Blumenthal enforces the orders of the Commission. Conn. Gen. Stat. §§ 9-7b (2006).

IV. FACTUAL ALLEGATIONS

Statutory Framework

20. The statutory provisions that are the subject of this case are Conn. Gen. Stat. §§ 333l(h)-(i), -333n(g)-(j), -702(b), -704, -705(c) and (g), -713, and -714, as amended by the Act.

Public Financing System -- Eligibility Thresholds

21. The Act establishes a “Citizens’ Election Program” to provide for public financing of campaigns for major legislative and executive state offices beginning in 2008 for certain offices and 2010 for other offices. Conn. Gen. Stat. §§ 9-702, -703 (2006). In exchange for public financing grants, participating candidates agree to limit their campaign spending to amounts specified in the Act. *Id.* § 9-702(c).

22. In order to participate in the public financing program, a candidate must obtain the amount of “qualifying contributions” specified for the office for which he or she is running. Conn. Gen. Stat. §§ 9-702(b), -704 (2006). “Qualifying contributions” are monetary contributions of at most one hundred dollars from qualified electors. *Id.* § 9-704. Candidates for governor must receive an aggregate of \$250,000 from at least 2500 individuals. *Id.* § 9-704(a)(1). Candidates for other executive offices must receive an aggregate of \$75,000. *Id.* § 9-704 (a)(2). For candidates for Governor and other executive offices, at least ninety percent (90%) of the aggregate amount must be from in-state residents. *Id.* §§ 9-704(a)(1) and (2). Candidates for state senate must receive an aggregate of \$15,000 from at least 300 of the district’s residents. *Id.* § 9-704(a)(3). Candidates for state representative must receive an aggregate of \$5,000 from at least 150 of the district’s residents. *Id.* § 9-704(a)(4).

23. Minor party and petitioning party candidates face an additional threshold. In order to participate in the public financing system, a minor party candidate must belong to a minor party whose candidate for the same office received at least ten percent (10%) of the vote cast in the prior election. Conn. Gen. Stat. § 9-705(c)(1) and (g)(1) (2006). Under the Act, a minor party candidate may not participate in the public financing system if his or her predecessor received less than 10% of the vote in the prior election. A minor party candidate who does not meet this second threshold cannot otherwise qualify for public financing as a petitioning party candidate because candidates nominated by a major or minor party are prohibited from appearing on a ballot by nominating petition. Conn. Gen. Stat. § 9-453t (2006). Minor party and petitioning party candidates that do not qualify for public financing at the outset cannot otherwise qualify or obtain post-election public financing based on a strong showing in the general election.

24. A petitioning party candidate must have on his or her nominating petition the number of signatures of qualified electors, defined as registered voters, equivalent to at least ten percent (10%) of the number of votes cast in the last election for the same office for which the candidate is currently running. *Id.* § 9-705(c)(2) and (g)(2). This is ten times the number of signatures required for access to the ballot for an unaffiliated or independent candidate.

25. Even if a minor party candidate were otherwise able to meet both thresholds, he or she would receive only a fraction of the grant awarded major party candidates unless the candidate of the same minor party for the same office at the last preceding election received at least twenty percent (20%) of the vote. If the candidate received between ten (10) and fifteen (15) percent of the vote in the last election, he or

she would receive one-third of the funding awarded major party candidates, and if the candidate received between fifteen (15) and twenty (20) percent of the vote, he or she would receive two-thirds of the funding awarded to major party candidates. Conn. Gen. Stat. §§ 9-705(c)(1), (g)(1). A post-election supplement is made if a minor party candidate receives a greater percentage of votes than the percentage that qualified that candidate for public financing at the outset. Amendments § 19(c)(3).

26. Similarly, unless a petitioning party candidate has received a number of signatures equivalent to twenty percent (20%) of the number of votes cast in the last relevant election, the amount of financing provided the petitioning party candidate is only a fraction of that awarded to major party candidates. If the number of signatures is between ten (10) and fifteen (15) percent, the candidate receives one-third of the grant awarded to major party candidates; if the number is between fifteen (15) and twenty (20) percent, the candidate receives two-thirds. Conn. Gen. Stat. §§ 9-705(c)(2), (g)(2). A post-election supplement is made if a petitioning party candidate receives a greater percentage of votes than the percentage of signatures obtained that qualified that candidate for public financing at the outset. Amendments § 19(c)(3).

27. The qualifying criteria for public financing operate to effectively exclude minor and petitioning party candidates from participation. Minor party candidates whose parties garnered less than ten percent (10%) in the prior election are categorically ineligible for receipt of public financing under the Act. Minor party candidates who received 10% or more only qualify if they are able to meet the unrealistic burden of raising thousands of dollars in qualifying contributions. Petitioning party candidates are also only eligible if they are able to meet that financial threshold. If minor party or

petitioning party candidates qualify, they receive only a fraction of the grant awarded to their major party counterparts unless their predecessor received either twenty percent (20%) of the vote, or they are able to obtain a number of signatures equal to twenty percent (20%) of the vote, respectively. These barriers to public financing for minor and petitioning party candidates are unattainable and ensure that such candidates will not be able to participate in the public financing system.

Public Financing System – Organization Expenditure Provisions

28. All candidates who participate in the public financing system agree to limit the expenditures of the “candidate’s committee” to the qualifying contributions and the financing received through the system for each phase of a campaign -- pre-primary, primary, and general election. Conn. Gen. Stat. §§ 9-702(c), -705(j) (2006). These limits are meaningless in light of other provisions of the Act that provide for spending by party and legislative committees. These loopholes are designated as “organization expenditures” under the Act. All organization expenditures are excluded from the definition of prohibited contributions and expenditures if the candidate participates in the public financing system. *Id.* §§ 9-333b(b)(16), -333c(b)(8).

29. An “organization expenditure” is “an expenditure by a party committee, legislative caucus committee or legislative leadership committee for the benefit of a candidate or candidate committee for . . .” broadcast communications or advertising, direct mail campaigns, campaign literature, campaign events, retention of the services of advisors to provide assistance in campaign organization, financing, accounting, strategy and law, and the use of office space and equipment. Conn. Gen. Stat. § 9-333a(25) (2006). “Party committees” are state central or town committees. *Id.* § 9-333a(2).

Participating candidates for state executive offices are permitted to raise and spend unlimited amounts of money through their political parties. *Id.* §§ 9-333b(b)(16), 333c(b)(8). This increases the financial disparity between participating and non-participating candidates.

30. Participating candidates for state legislative office are permitted to raise and spend limited, but substantial, amounts of money through their political parties and legislative committees. “Legislative caucus committees” are established by the members of a political party who are also state representatives or senators. *Id.* § 9-333a(22). “Legislative leadership committees” are established by leaders of the General Assembly. *Id.* § 9-333a(23). These provisions are effective December 31, 2006. *Id.* § 9-333n(g)-(j). This increases the financial disparity between participating and non-participating candidates. Amendments § 16.

31. Under the Act, non-participating candidates are prohibited from accepting organizational expenditures. The Act amended the pre-existing statute that permitted party committees and political committees to make unlimited contributions to candidates. *See Id.* §§ 9-333s, 9-333t. Under the amended statute, parties and political committees can only make limited contributions. However, the new organizational expenditure provisions in effect preserve the right to make unlimited contributions to participating candidates. *Id.* §§ 9-333b(b)(16), -333c(b)(8). Thus, participating candidates will not only be able to spend their qualifying contributions and public financing grants - they will reap the benefit of spending by their party and legislative committees. The public financing system places minor and petitioning party candidates in a worse position than that they are in under the current system.

Public Financing System – Primary Funding Limited to Major Party Candidates

32. The Act provides for primary funding for major party candidates but not for minor party candidates. Conn. Gen. Stat. § 9-705 (2006). Major party candidates are eligible to receive public financing for their primaries even if they face only nominal opposition.

Public Financing System – Excess Expenditures by Non-Participating Candidates

33. Under the Act, participating candidates receive an additional public subsidy in response to expenditures made by non-participating candidates, including candidates who are ineligible or unable to qualify for public financing. If a minor party candidate does not participate in the public financing system, and spends more than ninety percent (90%) of the amount allocated to participating candidates for the office in question, the Act provides that all participating candidates shall receive additional funding equal to twenty-five (25%) of the original grant. Conn. Gen. Stat. § 9-713(a) (2006). Thus, when a non-participating candidate spends in excess of 90% of the grant to which his participating opponents are entitled, those participating opponents become entitled to 125% of their original grant. *Id.*

34. Thereafter, all participating candidates are entitled to an *additional* twenty-five percent (25%) of the original grant for each time a non-participating opponent spends an *additional* amount equivalent to twenty-five percent (25%) of the original grant, up to the point at which spending by the non-participating opponent has exceeded 165% of the original grant. *Id.* § 9-713(b)-(d) (2006). For example, when a non-participating candidate spends in excess of 115% of the grant to which his participating opponents are entitled, those participating opponents become entitled to

150% of their original grant, *Id.* § 9-713(b), and so on, up to the point at which spending by the non-participating opponent has exceeded 165% of the original grant (at which point the participating candidates have been awarded two hundred percent (200%) of their original grant. *Id.* § 9-713(d)).

35. This matching fund provision gives an unfair financial advantage to participating candidates by providing them extra funding when spending by their non-participating opponents merely begins to *approach* the level of the grant awarded to participating candidates. Until a non-participating candidate spends *two hundred percent (200%)* of the original grant to participating candidates, it is impossible for the non-participating candidate to match the spending of her participating opponent (assuming participating candidates will spend all the money they are given – a virtual certainty). Whenever the non-participating candidate comes within ten percent (10%) of the amount allocated to the participating candidate, the state widens the funding gap back to thirty-five (35%) of the original grant. The result is to present non-participating candidates with the unconstitutional choice of either curtailing their own speech or effectively subsidizing their participating opponents' speech.

36. The matching fund provision creates an even greater disparity in a multi-candidate race in which there is more than one non-participating candidate. If, for example, one well-heeled non-participating candidate spends ninety percent (90%) of the amount of the grant awarded a participating candidate for the office in question, additional funding is triggered for the participating candidate to the disadvantage of *all* non-participating candidates, even those who did nothing to trigger the additional funding. These other non-participating candidates are thus handicapped as the result of

spending decisions by a candidate over whom they have no control. This matching fund provision thus restricts the speech of non-participating candidates.

37. By providing strong disincentives to outspend an opponent, the matching fund provision improperly does more than level the playing field – it gives participating candidates a financial edge. This will necessarily provide an advantage to incumbent office holders in the same way as mandatory spending limits. Incumbent office-holders receive extensive free publicity in the local news media because of their official positions. Incumbents also benefit from district-wide mailings and have other direct and substantial financial and non-financial advantages over their challengers. Challengers have none of these advantages and under the Act, they cannot compensate by spending additional money. The public financing system thus functions as an incumbent-protection mechanism as well as a restriction on political speech.

Public Financing System – Independent Expenditures

38. The Act also deters independent expenditures in support of political candidates. Whenever an independent expenditure is made with the intent to defeat a candidate who is participating in the public financing system, the participating candidate receives an additional grant equal to the amount of the independent expenditure. Conn. Gen. Stat. § 9-714(a) (2006). Under this provision, a participating candidate may receive additional funding up to the amount of his or her original grant. *Id.* § 9-714(c).

39. Thus, if an individual or organization over which a candidate has no control spends any money on advertising or publicity that expressly advocates the election of that candidate or the defeat of that candidate's opponent, if the opponent is a participating candidate she is entitled to matching funds. By funding the opponent, this

provision penalizes both the candidate whose campaign the independent speaker is attempting to support, and the speaker himself, whose political speech in favor of one candidate has triggered a windfall for the opponent. The Act establishes an incentive system as an indirect means to accomplish a result -- the deterrence of independent speakers from expressing their political views -- that the government could not command directly.

40. The independent expenditure provision also harms non-participating candidates because independent expenditures in support of participating candidates do not trigger matching funds. This dynamic alone has the potential to create a tremendous spending disparity between participating and non-participating candidates. For example, in a two-way race between a participating and a non-participating candidate, independent expenditures in support of the participating candidate may be made freely, without corresponding government aid to the non-participant, whereas the effect of independent expenditures in support of the non-participating candidate is counterbalanced by matching funds awarded to the participating candidate. The obvious disadvantage to the non-participating candidate violates that candidate's rights to freedoms of speech and association as well as the rights of freedom of speech and association of that candidate's supporters.

Contribution Limits

A. Restrictions Applicable to Communicator Lobbyists

41. The Act imposes a total ban on contributions by "communicator lobbyists," their political committees, their immediate family members, or their immediate family members' political committees to exploratory committees, candidate

committees, legislative caucus committees, legislative leadership committees, or party committees. Conn. Gen. Stat. § 9-333l(h) (2006). The Act also prohibits the same set of individuals and political committees from soliciting contributions on behalf of such entities and from purchasing advertising space in a program for fundraising affairs sponsored by town committees. *Id.* § 9-333l(i). A “communicator lobbyist” is “a lobbyist” who “communicates directly or solicits others to communicate with an official or his staff in the legislative or executive branch of government or in a quasi-public agency for the purpose of influencing legislative or administrative action.” *Id.* § 1-91(v).

42. A “lobbyist” in turn is defined as “an individual or organization communicating with, or soliciting others to communicate with, an individual, or his or her staff, in the legislative or executive branch of State government for the purpose of influencing any legislative or administrative action and receiving or spending, or agreeing to receive or spend, \$2,000 or more in the aggregate in a calendar year in lobbying and in furtherance of lobbying must register with the Office of State Ethics. Conn. Gen. Stat. § 1-91 (2006). (“Legislative action” includes any matter within the jurisdiction of the Legislature. “Administrative action” includes attempts to affect the rules and regulations of any executive agency, or any action or nonaction of any executive or quasi-public agency regarding any matter within its jurisdiction.) *Id.* § 1-91(l). These bans take effect December 31, 2006. *Id.* §§ 9-333l, *History*.

43. The Act defines the term “solicit” as “(A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to

any such committee or bundling contributions, (C) serving as chairperson, campaign treasurer, deputy campaign treasurer or any other officer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee.” Conn. Gen. Stat. § 9-333a(26) (2006). “Solicit” does not include “(i) making a contribution that is otherwise permitted under this chapter, (ii) informing any person of a position taken by a candidate for public office or a public official, or (iii) notifying the person of any activities of, or contact information for, any candidate for public office.” *Id.*

44. Under the Act, plaintiff Philips, the wife of a “communicator lobbyist,” plaintiff Gallo, herself a “communicator lobbyist,” and plaintiff Vann, himself a “communicator lobbyist,” will be prohibited from making contributions to or soliciting contributions on behalf of candidates or legislative leadership or party political committees. Philips will be unable to continue her membership on the Colchester Democratic Town Committee or to co-manage future campaigns of Representative Orange. Gallo and Vann will be unable to participate in the political process through contributions to, or solicit contributions on behalf of, candidates they wish to support. The Act thus directly interdicts the participation of plaintiffs Philips, Gallo, and Vann in the political process, in violation of their rights to freedom of speech and association as private citizens.

45. Under the broad definition of “solicit” in the Act, Gallo will be unable to provide effective lobbying services to her clients. She will no longer be able answer the most basic questions of clients about a candidate or her position on a particular issue if it in any way relates to whether the client should financially support that candidate. The

solicitation restriction will have a similar chilling effect on Vann's ability to effectively advocate, in his professional capacity, on behalf of the civil rights community and support, in his personal capacity, candidates that are responsive to that community.

46. The prohibition on contributions by communicator lobbyists is written broadly enough to reach not-for-profit advocacy organizations, such as the Connecticut Bar Association and the ACLU-CT and individuals who work for those organizations, even though the primary mission of those groups or individuals is not lobbying.

B. Restrictions Applicable to Principals of State Contractors

47. Another provision of the Act imposes a total ban on contributions by the major officers, directors and managers of state contractors or prospective state contractors, their immediate family members, and their political committees, to exploratory committees or candidate committees established by candidates for specified offices within the branch of government with which the contractor or prospective contractor works, political committees authorized to make contributions or expenditures to or for the benefit of such candidates, or party committees. Conn. Gen. Stat. § 9-333n(g)(2) (2006). The Act does not prohibit contributions by prospective contractors who have not submitted a bid for a state contract. These bans take effect December 31, 2006. *Id.* §§ 9-333n, *History*.

48. A "state contract" is "an agreement or contract with the state or any state agency or any quasi-public agency, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a fiscal year" for the provision of delineated services, property or things. Conn. Gen. Stat. § 9-333n(g)(1)(C) (2006). A "state contractor" is "a

person, business entity or nonprofit organization that enters into a state contract.” *Id.* § 9-333n(g)(1)(D)). A “prospective state contractor” is “a person, business entity or nonprofit organization that (i) submits a bid in response to a bid solicitation . . . or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services.” *Id.* § 9-333n(g)(1)(E).

49. A “principal of a state contractor or prospective state contractor” is (i) a person who is a “member of the board of directors, or has an ownership interest in, a state contractor or prospective state contractor, which is a business entity,” (ii) an “individual who is employed by a state contractor, which is a business entity, as president, treasurer or executive or senior vice president,” (iii) the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, (iv) an “employee of a state contractor or prospective state contractor who has managerial or discretionary responsibilities with respect to a state contract,” (v) the spouse and children of a principal, and (vi) a political committee established by or for a principal of a state contractor or prospective state contractor. Conn. Gen. Stat. § 9-333n(g)(1)(F) (2006).

50. Under the Act, Robinson, a “principal of a state contractor,” is prohibited from contributing to or raising money for candidates for state-wide office. She is also prohibited from contributing to political action committees that contribute to candidates for state-wide office, including state and national political action committees like NARAL Pro-Choice America and the National Organization for Women which may

contribute to a candidate for state-wide office. This restriction is not limited to candidate or party political action committees.

51. The Act also requires the Commission to publish on its website a master list of all principals of state contractors and prospective state contractors. Conn. Gen. Stat. § 9-333n(h)(2). The publication of the identities of spouses and dependent children (covered by the Act’s definition “principal of a state contractor”) unjustifiably intrudes upon the privacy interests of the families. Individuals who oppose the missions of organizations receiving state grants could use this information for the purposes of harassment or intimidation.

CLAIMS FOR RELIEF

52. Each of the foregoing allegations is incorporated by reference into each of the following claims, as if set forth fully therein.

Count One

53. The qualifying criteria for public financing and the distribution formulas contained in the Act, Conn. Gen. Stat. §§ 9-702(b), 704, 705(c) and 705(g), discriminate against minor party and petitioning party candidates and their supporters in violation of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. Plaintiffs challenge these provisions both facially and as applied.

Count Two

54. The matching fund provision contained in the Act, Conn. Gen. Stat § 9-713, violates the First Amendment rights of non-participating candidates and their

supporters under the United States Constitution. Plaintiffs challenge this provision both facially and as applied.

Count Three

55. The independent expenditure provision contained in the Act, Conn. Gen. Stat. § 9-714, violates the First Amendment rights of non-candidates and non-participating candidates and their supporters under the United States Constitution. Plaintiffs challenge this provision both facially and as applied.

Count Four

56. The total bans on contributions and solicitation of contributions by communicator lobbyists (and by their families) contained in the Act, Conn. Gen. Stat. §§ 9-333(h) and (i), and by the officers, directors and some employees of state contractors and prospective state contractors (and by their families), Conn. Gen. Stat. §§ 9-333n(g)-(j), violate the First Amendment rights of individuals, organizations and candidates under the United States Constitution. Plaintiffs challenge these provisions both facially and as applied.

Count Five

57. The disclosure requirements contained in Conn. Gen. Stat. § 9-333n(h)(2) unjustifiably burden the privacy interests of the families of principals of state contractors in violation of the First and Fourteenth Amendments of the United States Constitution. Plaintiffs challenge this provision both facially and as applied.

Request for Relief

Wherefore, Plaintiffs request that this Court:

(a) Declare the challenged sections of the Act unconstitutional;

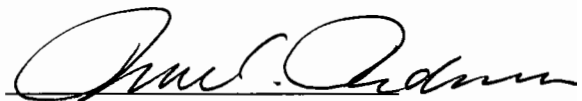
(b) Issue permanent injunctive relief barring Defendants from enforcing the statutes challenged in Counts I-III, in whole or in part;

(c) Issue preliminary and permanent injunctive relief barring Defendants from enforcing the statutes challenged in Count IV-V, in whole or in part;

(d) Award Plaintiffs their reasonable attorneys fees and expenses pursuant to 42 U.S.C. § 1988, and

(e) Grant any additional relief to which Plaintiffs are entitled.

Dated this 29th day of September 2006.

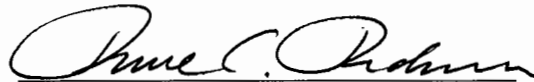


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CERTIFICATE OF SERVICE

This is to certify that on this 29th day of September 2006, a copy of the attached Amended Complaint was electronically filed. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system.

A handwritten signature in black ink, appearing to read "Renee C. Redman", written in a cursive style.

Renee C. Redman