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MEMBERS OF CONGRESS AND CONGRESSIONAL CANDIDATES FILE FEC COMPLAINT TO ABOLISH SUPER PACS

COMPLAINT SEEKS REVERSAL OF 2010 FEDERAL APPEALS COURT RULING WHICH SANCTIONED SUPER PAC SPENDING IN US ELECTIONS

WASHINGTON, DC – A bipartisan coalition of Members of Congress and 2016 congressional candidates filed today a complaint before the Federal Election Commission seeking to end super PAC spending in US elections. The complaint, led by Senator Jeff Merkley (D-OR), Representative Ted Lieu (D-CA-33), and Representative Walter Jones (R-NC-3), seeks to reverse a federal appeals court ruling which created super PACs and has resulted in an explosion of spending in elections across the country.

The March 2010 ruling by the U.S. Court of Appeals for the D.C. Circuit in *SpeechNow.org v. FEC*, opened the door to super PACs by holding that the federal law limiting contributions to political committees to \$5,000 per person each year did not apply to a political committee that promised to make only “independent expenditures.” The FEC complaint filed today alleges that super PACs have now become vehicles for wealthy donors to evade campaign contribution limits designed to prevent corruption and the appearance of corruption. The US Supreme Court has yet to review this question.

As the complaint cites, more than forty percent of federal super PAC contributions, as of April 2016, had come from just 50 funders and their families. By late June 2016, federal super PACs had reported total receipts of more than \$755 million and total expenditures of more than \$405 million.

The FEC complaint names ten super PACs as respondents, including the Democratic and Republican super PACs for Senate and House candidates. It alleges that the super PACs “have knowingly accepted and continue to knowingly accept contributions that exceed the \$5,000 per contributor limit, in some cases by over a hundredfold.” The \$5,000 per contributor limit has remained on the books after the *SpeechNow* ruling. The FEC complaint seeks enforcement of this \$5,000 contribution limit, thereby abolishing super PACs in US elections.

According to the FEC complaint, “[t]he availability of quid pro quo transactions through super PAC contributions creates a potential for corruption, and an appearance of corruption that is confirmed by the public. For this reason, enforcing the contribution limits...against super PACs is justified by the interest in preventing corruption and the appearance of corruption.”

Free Speech For People, a national non-profit public interest organization founded on the day of the US Supreme Court’s ruling in *Citizens United v. FEC*, serves as lead counsel for the complainants, along with the Campaign for Accountability. The legal team includes a bipartisan group of

distinguished scholars and practitioners in the law of the First Amendment, corruption, and government ethics: Professor Laurence Tribe (Harvard Law School); Professor Albert Alschuler (Univ. of Chicago Law School, emeritus); Ambassador (ret.) Norman Eisen (former chief ethics counsel to President Barack Obama); and Professor Richard Painter (Univ. of Minnesota Law School, and former chief ethics counsel to President George W. Bush).

For a copy of the FEC complaint and background materials, visit www.endingsuperpacs.org.

Quotes on the FEC Complaint Seeking to End Super PACs

Senator Jeff Merkley

“When huge corporations and the super-wealthy can drown out the voices of ordinary Americans, we’ve lost President Lincoln’s vision of a government of the people, by the people, and for the people. We need to put ‘We the People’ back in charge, and that starts by closing the gaping super PAC loophole that has allowed dark money to overwhelm our elections.”

Congressman Ted Lieu

“I am honored to join my colleagues and Free Speech For People as one of the lead plaintiffs in a legal challenge seeking to compel the Federal Election Commission to enforce federal contribution limits on super PACs. It is time to get big money out of politics. Since the *SpeechNow.org v. Federal Election Commission* decision, the amount of money being spent on our elections has exploded, adding fuel to the public perception of election corruption. Americans across the political spectrum want to see their elected officials responsive to them instead of big money donors. The idea that one person or one corporation can essentially buy an election is a threat to our democracy. Progress happens when people stand up and demand a change. The vast majority of the American people want to see limits to campaign contributions. It is time we address these inequities and advocate for changes to our campaign finance system.”

Congressman Walter Jones

Since the *Citizens United* and *SpeechNow.org* decisions in 2010, I have witnessed the influence of money in politics become more and more pervasive. I see its influence shape policy in Washington to the detriment of the American people all the time. This effort is an important step towards returning the government to the people, and I’m proud to be a part of it.”

Professor Laurence Tribe

“Super PACs take their cue from a judicially-made loophole that stems from a lower court decision (*SpeechNow*) that, to this day, the Supreme Court has never reviewed. The Supreme Court Justices, including some who joined the *Citizens United* decision, may well be aghast at how a lower-court misinterpretation of the First Amendment gave birth to the super PAC takeover of American politics.”

Ron Fein, Legal Director, Free Speech For People, and Lead Counsel

“This is the start of a new chapter in the effort to reclaim our system from super PACs. For too long, opponents of campaign finance reform have set the agenda in the courts. Today, we’re taking back the initiative.”

Professor Albert Alschuler

“SuperPACs have been called the attack dogs and provocateurs of modern politics. In the *SpeechNow* case, a federal appeals court struck down Congress’s limits on contributions to these groups. It held that contributors have a constitutional right to make unlimited contributions. The court’s ruling transformed American politics, and the Supreme Court has never decided whether this ruling was correct. In fact, the appeals court ruling went substantially beyond even the *Citizens United* decision. The time has come to challenge the ruling and to bring the issue before the US Supreme Court.”

Ambassador (ret.) Norman Eisen

“*Citizens United* is a famously bad case, but *SpeechNow* makes it even worse. The tragedy is that it does not have to be this way. The FEC, and the courts, should and can apply federal law to stop super PACs from running amok, and this case is a first step in helping them to do that.”

Professor Richard Painter:

"This case is an opportunity for the FEC -- and perhaps the federal courts -- to address an important aspect of the campaign finance issue. Super PACs have had a corrosive and corrupting influence on our government and we believe that it is within Congress's constitutional powers to fight public corruption by regulating super PACs and their sources of funding."

Anne Weismann, Executive Director, Campaign for Accountability

“Americans understand what the FEC and federal courts have refused to see: super PACs are destroying our democracy. The quest for ever-increasing amounts of money leads candidates to be far more concerned about the interests of their billionaire benefactors than their home state constituents.”

John Bonifaz, President, Free Speech For People

“Super PACs are threatening the integrity of our elections and undermining the promise of American self-government: of, by, and for the people. We cannot allow wealthy donors to evade our contribution limits and undermine the constitutional interest of preventing corruption and the appearance of corruption. This case will provide the US Supreme Court the opportunity to end the super PAC threat facing our democracy today.”