

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CENTER FOR INDIVIDUAL FREEDOM,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 07-2792
	)	
THOMAS CORBETT, Attorney General of	)	
the Commonwealth of Pennsylvania,	)	
	)	
Defendant.	)	

STIPULATED JUDGMENT

Upon review of applicable decisions of the Supreme Court of the United States, the parties to this proceeding have reached agreement that the challenged provisions of Pennsylvania campaign finance law, properly construed, are facially constitutional under current First Amendment precedent. Accordingly, the parties stipulate and agree to the entry by the Court of the following final judgment.

**Background**

1. This action was brought by the Center for Individual Freedom (“CFIF”) against Thomas Corbett, Attorney General of the Commonwealth of Pennsylvania, Pedro A. Cortes, Secretary of the Commonwealth of Pennsylvania, and three District Attorneys, each in his or her official capacity under the doctrine of *Ex Parte Young*. All Defendants but the Attorney General have been separately dismissed by agreement.

2. The Complaint asserts claims under 42 U.S.C. § 1983 that provisions of Pennsylvania’s campaign finance law violate the First Amendment to the United States Constitution and seeks declaratory relief pursuant to 28 U.S.C. § 2201.

3. The Court has jurisdiction under 28 U.S.C. §§ 1331, 1343, and 1367.

4. CFIF, an incorporated organization that seeks to protect and defend individual freedoms and rights guaranteed by the U.S. Constitution, wishes to broadcast ads in Pennsylvania prior to the upcoming November 2007 elections. CFIF states that the ads it plans to broadcast will be independent of any candidate or campaign, will address justice issues, and will refer to candidates to illustrate its points, but will not expressly advocate the election or defeat of any candidate.

5. The challenged provisions of Pennsylvania's campaign finance law prohibit corporations and unions from making an "expenditure in connection with the election of any candidate or for any political purpose whatever," 25 Pa. Stat. § 3253(a), with "expenditure" defined as any spending "for the purpose of influencing the outcome of an election," 25 Pa. Stat. § 3241(d)(1).

6. CFIF alleged that the challenged provisions do not provide tailored and objective guidance sufficient to permit it and similarly situated speakers to determine confidently that its proposed speech will not subject it to regulation and possible punishment, resulting in self-censorship that injures its First Amendment right to free speech and the rights of interested persons to receive such speech. CFIF claims that the challenged provisions are vague and overbroad, and invalid under the First Amendment.

7. *Buckley v. Valeo*, 424 U.S. 1, 43-44 & n. 52, 79-82 & n. 108 (1976), held that, to avoid First Amendment vagueness and overbreadth, similar provisions of federal law restricting spending for "advocating the election or defeat of" a candidate and "for the purpose of influencing an election" both must be construed to apply only to "express

advocacy,” meaning language that advocates “in express terms” “the election or defeat of a clearly identified candidate.” *Id.*

8. The challenged provisions of Pennsylvania’s campaign finance law likewise are facially consistent with the First Amendment if construed as prohibiting expenditures by corporations and unions only for ads that “expressly advocate” the election or defeat of clearly identified candidates. Pennsylvania and United States precedent requires statutes to be construed to preserve their constitutionality where that is reasonably possible.

#### Judgment

1. Based on the foregoing, and to provide clear guidance to speakers in light of existing precedent of the United States Supreme Court, the Court declares that 25 P.S. § 3253(a) regulating any “expenditure in connection with the election of any candidate or for any political purpose whatever,” and P.S. § 3241(d)(1) defining “expenditure” as any spending “for the purpose of influencing the outcome of an election,” are properly construed as applying only to spending for “express advocacy” as that term is defined in *Buckley*.

2. So construed, the challenged provisions are facially consistent with the First Amendment as presently construed by the United States Supreme Court.

3. This declaration construes current provisions of Pennsylvania campaign finance law in light of existing Supreme Court precedent and is not intended to affect any other Pennsylvania law present or future.

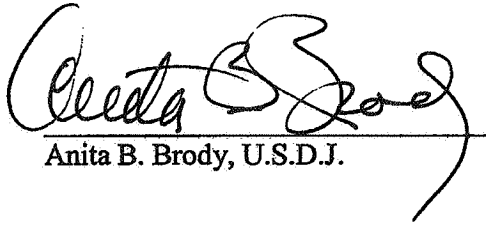
4. The foregoing relief is exclusively declaratory in nature and is for the purpose of guiding compliance with and enforcement of the challenged provisions.

Anticipating that the foregoing declaration will be respected, no injunction or other coercive relief is granted.

5. Subject to the foregoing, the complaint is dismissed and each party shall bear its own costs and attorneys fees.

**SO ORDERED, ADJUDGED, AND DECREED** this 18<sup>th</sup> day of August, 2007:

BY THE COURT

  
Anita B. Brody, U.S.D.J.