CAMPAIGN FINANCE: CONTRIBUTIONS, INDEPENDENT EXPENDITURES, AND DISCLOSURE

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Campaign Finance

- Contribution Limits
- Independent Expenditures
- Disclosure
- Public Financing
Candidate
Political Action Committee (PAC)
Independent Expenditure
Express Advocacy
Issue Advocacy
Electioneering Communication
Buckley v. Valeo
424 U.S. 1 (1976)

- Contribution Limits [Upheld]
- Expenditure Limits [Struck Down]
- Disclosure [Upheld]
- Public Financing [Upheld]
Express Advocacy: “Magic Words”


[C]ommunications containing express words of advocacy of election or defeat, such as “vote for,” “elect,” “support,” “cast your ballot for,” “Smith for Congress,” “vote against,” “defeat,” or “reject.” [Footnote 52]
Express Advocacy: Functional Equivalent


[S]usceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.
CONTRIBUTION LIMITS

- Closely drawn scrutiny
  - Closely drawn to achieve sufficiently important government interest
- Prevention of actual or apparent quid pro quo corruption
CONTRIBUTION LIMITS

- Generally Upheld Unless …
- Limits Too Low
- Aggregate Limits
INDEPENDENT EXPENDITURES

- Strict scrutiny
  - Narrowly tailored to achieve compelling government interest
- Prevention of actual or apparent *quid pro quo* corruption

- Ban on Corporate/Union Independent Expenditures [Struck Down]
- Disclosure Requirements [Upheld]
Disclosure

- Exacting scrutiny
  - Substantial relationship between law and sufficiently important government interest
- Providing information to electorate about election-related spending
Disclosure

- Not limited to express advocacy or its functional equivalent
- Burdens imposed by disclosure
- “Major purpose” of nominating or electing candidates
DISCLOSURE: EXAMPLES

- **Upheld**
  - Madigan (7th Circuit, 2012)
  - VT Right to Life (2nd Circuit, 2014)
  - Yamada (9th Circuit, 2015)

- **Struck Down**
  - NM Youth Organized (10th Circuit, 2010)
  - IA Right to Life (8th Circuit, 2013)
  - Barland II (7th Circuit, 2014)
CONCLUSION

- Independent Expenditures
  - Strict scrutiny
  - Prevention of *quid pro quo* corruption

- Contribution Limits
  - Closely drawn scrutiny
  - Prevention of *quid pro quo* corruption

- Disclosure
  - Exacting scrutiny
  - Provide information to electorate
QUESTIONS?

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