



Buyers Up • Congress Watch • Critical Mass • Global Trade Watch • Health Research Group • Litigation Group
Joan Claybrook, President

The Last Major “Soft Money” Loophole: Section 527 Groups in the 2004 Federal Elections

Section 527 groups register with the IRS as political committees in order to affect elections. Unfortunately, because of a loophole in federal campaign finance law and a refusal by the Federal Election Commission (FEC) to close it, 527 groups are free to collect unlimited soft money contributions from corporations, unions and individuals.

The Bipartisan Campaign Reform Act (BCRA) of 2002 – known as the “McCain-Feingold” law – prohibited the use of soft money by federal officeholders, candidates and political parties. That law affirmed the decades-old ban on using corporate and union treasury money to affect federal elections. Limits on contributions from individuals to federal candidates, PACs and parties have been in place since 1971.

But 527 groups are largely exempt from these contribution limits, even though they engage in many of the same activities as political action committees (PACs), which are limited to receiving no more than \$5,000 a year from an individual or another PAC.

The growth of 527 groups since the political party soft money system was shut down, the type of activities and significant influence of these groups, and the exceptional concentration of wealthy special interests funding these groups, require reforms that limit contributions to Section 527s as they are limited to PACs.

The following patterns in the growth and funding of 527 groups show why:

- **The amount of unregulated money that 527 groups raised and spent in the 2004 federal elections increased 150 percent over 2002.** Money flowing to 527 groups increased from \$151 million in the 2002 election cycle to \$405 million in 2004 – an increase of \$254 million. [See Figure 1]
- **The number of 527 groups increased 63 percent in 2004 from 2002, as more groups and individuals sought to evade federal campaign finance laws.** Many of the groups were barely-disguised surrogates for the political parties run by political professionals closely associated with the political parties. Many of their donors were the major soft money donors to the political parties prior to BCRA. [See Figure 1]

- **Democratic 527 groups enjoyed a short-term advantage over Republican 527 groups in 2004, but it will not last.** While Democratic-leaning 527 groups outraised Republican-leaning 527 groups 4-to-1 in the 2004 elections, Republican groups outspent Democratic groups 3-to-1 for broadcast ads in the final weeks of the election. [See Figures 1 and 2] The Democratic party originally led the rush to raise and spend soft money in the 1990s, but the Republican party learned the game and quickly matched Democrats. By the 2002 election cycle, both parties were roughly at parity, with Republicans having raised \$250 million in soft money and Democrats having raised \$246 million. [See Figure 5] Just like the soft money loophole exploited by the political parties prior to BCRA, both Democratic-leaning groups and Republican-leaning groups are likely to fully exploit this loophole in a neck-to-neck fundraising frenzy in 2006 and beyond, if not closed soon.
- **52 people – all of whom contributed at least \$1 million – gave 44 percent of all money collected by federal 527 groups in 2004.** In 2004, 24 people gave \$2 million or more to 527 groups, raising more than \$142 million, or 35 percent of total funds raised. Another 28 people gave \$1 million or more to 527 groups last cycle, raising another \$35 million. By comparison, in 2002 no individual gave \$2 million or more to a 527 group and only two individuals gave \$1 million or more in that election cycle. [See Figures 3 and 4] While the courts have so far interpreted the Constitution as allowing individuals to make unlimited independent expenditures of their own funds, contributions by individuals to other committees that make contributions or expenditures to affect federal elections must remain subject to the current \$5,000 contribution limit.
- **BCRA accounted for an estimated \$337 million reduction in soft money in the 2004 federal elections from 2002, but this will not last in 2006 and beyond if the Section 527 soft money loophole remains open.** In the 2002 election cycle, it is estimated that national and state parties in federal elections raised \$591 million.¹ Another \$151 million was raised by federal 527 groups for a total of \$741 million. [See Figure 1] In the 2004 cycle the political parties were banned from raising soft money, but 527 groups raised \$405 million for a net reduction of \$337 million from 2002. However, if left unchecked, Section 527 organizations are likely to continue increasing their share of campaign finances in future elections and will likely eliminate any gains provided by BCRA.
- **Political parties have become stronger under BCRA, showing that the soft money ban has helped strengthen the political system.** The parties made up for the soft money loss by reaching out to an additional 3 million individual contributors, raising more in hard money alone in 2004 (\$1.2 billion) than in combined hard and soft money in 2002 (\$1.0 billion).² Clearly officeholders, candidates and parties can survive and even prosper

¹ Steve Weissman and Ruth Hassan, “BCRA and the 527 Groups,” Campaign Finance Institute (March 8, 2005).

² Federal Election Commission, press release (Feb. 18, 2005).

in a hard money world of limited contributions. BCRA's ban on soft money must not be rolled back. At the same time, if soft money fundraising by 527 groups remains unchecked, these outside groups will play a larger and larger role in federal elections relative to candidates and the parties. [See Figure 5]

Figure 1.
Overview of Federal 527 Political Organizations,
2002 and 2004 Election Cycles

Federal 527 Organizations	2002 Election Cycle		2004 Election Cycle		
	No. of Groups	Total Receipts In 2002	No. of Groups	Organized after BCRA No. Percent	Total Receipts in 2004
Democratic-Oriented Organizations	28 (plus 26 leadership PACs)	\$107,200,590	59	41 69%	\$321,185,549
Republican-Oriented Organizations	14 (plus 20 leadership PACs)	\$43,686,999	21	9 43%	\$83,922,290
Total	42 (plus 46 leadership PACs)	\$150,887,589	80	50 63%	\$405,107,839

Source: Steve Weissman and Ruth Hassan, "BCRA and 527 Groups," Campaign Finance Institute (March 8, 2005).

Note: Leadership PACs are committees established and controlled by officeholders. Prior to BCRA, these PACs could raise and spend soft money.

Figure 2.
Broadcast Spending by 527 Political Organizations
in the Final Three Weeks of the 2004 Presidential Election

Presidential 527 Organizations	Total Broadcast Expenditures
Democratic-Oriented Organizations	\$10,276,499
Republican-Oriented Organizations	\$29,736,863
Total	\$40,013,362

Source: Alex Knott, Aron Pilhofer, and Derek Willis, "GOP 527s Outspend Dems in Late Ad Blitz," Center for Public Integrity (Nov. 3, 2004)

Figure 3

**Patterns of Individual Contributions to
Federal Section 527 Groups,
2002 and 2004 Election Cycles**

Range of Donations	2002 Election Cycle			2004 Election Cycle		
	No. of Donors	Amount	Percent of Funds from Individuals	No. of Donors	Amount	Percent of Funds from Individuals
\$2 million and above	0	\$0	0%	24	\$142,497,241	56%
\$1 million to \$1.9 million	2	\$2,152,000	6%	28	\$35,216,957	14%
\$500,000 to \$999,999	8	\$6,132,190	17%	25	\$16,380,500	6%
\$250,000 to \$499,999	13	\$4,238,550	11%	36	\$12,297,148	5%
\$100,000 to \$249,999	43	\$5,872,372	16%	152	\$20,360,946	8%
\$5,000 to \$99,999	1,165	\$18,672,941	50%	1,617	\$29,511,550	12%

Source: Steve Weissman and Ruth Hassan, Campaign Finance Institute (Feb. 9, 2005)

Figure 4

Top 24 Individual Donors To Federal Section 527 Organizations, 2004 Election Cycle

Rank	Contributor	Democratic Oriented	Republican Oriented	Total Contributions
1	George Soros Soros Fund Management	X		\$24,000,000
2	Peter Lewis Peter B Lewis/Progressive Corp	X		\$22,545,000
3	Steven Bing Shangri-La Entertainment	X		\$13,902,682
4	Herb & Marion Sandler Golden West Financial	X		\$13,007,959
5	Bob J. Perry Perry Homes		X	\$8,060,000
6	Alex Spanos AG Spanos Companies		X	\$5,000,000
6	Ted Waitt Gateway Inc.	X		\$5,000,000
6	Dawn Arnall Ameriquest Capital		X	\$5,000,000
9	T. Boone Pickens BP Capital		X	\$4,600,000
10	Jerry Perenchio/Perenchio Living Trust Chartwell Partners LLC		X	\$4,000,000
11	Andrew Rappaport August Capital Chartwell Partners LLC	X		\$3,858,400
12	Harold Simmons Contran Corp.		X	\$3,700,000
13	Alida R. Messinger Alida Messinger Charitable Lead Trust	X		\$3,447,200
14	Jeffrey & Jeanne Levy -Hinte Antidote Films TippingPoint Technologies	X		\$3,425,000
15	Linda Pritzker Sustainable World Corp.	X		\$3,365,000
16	Fred Eychaner Newsweb Corp.	X		\$3,075,000

Rank	Contributor	Democratic Oriented	Republican Oriented	Total Contributions
17	Lewis Cullman Cullman Foundation/Cullman Ventures	X		\$2,651,000
18	Alice Walton Rocking W Ranch		X	\$2,600,000
19	Carl Lindner American Financial Group		X	\$2,225,000
20	Robert Glaser RealNetworks Inc.	X		\$2,229,000
21	Agnes Varis Agvar Chemicals	X		\$2,006,000
22	Terry Ragon Intersystems Corp.	X		\$2,000,000
23	Richard DeVos Sr. Amway/Alticor Inc.		X	\$2,000,000
24	Jay Van Andel Amway/Alticor Inc.		X	\$2,000,000
	TOTAL	14	10	\$142,497,241

Source: Weissman and Hassan, Campaign Finance Institute (March 8, 2005)

Figure 5

**National Party Receipts,
2002 and 2004 Election Cycles**
(\$ in millions)

Party	2002 Election Cycle			2004 Election Cycle	
	Hard Money	Soft Money	Total	Hard Money	Total
Democrats	\$162.3	\$246.0	\$408.3	\$586.1	\$586.1
Republicans	\$370.4	\$250.0	\$620.4	\$657.1	\$657.1
Total	\$532.7	\$496.0	\$1,028.7	\$1,243.2	\$1,243.2

Committee	2002 Election Cycle			2004 Election Cycle	
	Hard Money	Soft Money	Total	Hard Money	Total
DNC	\$67.5	\$94.6	\$162.1	\$404.5	\$404.5
DSCC	\$48.4	\$95.0	\$143.4	\$88.7	\$88.7
DCCC	\$46.4	\$56.4	\$102.8	\$92.9	\$92.9
Democrats	\$162.3	\$246.0	\$408.3	\$586.1	\$586.1
RNC	\$170.1	\$113.9	\$284.0	\$392.4	\$392.4
NRSC	\$59.2	\$66.4	\$125.6	\$79.0	\$79.0
NRCC	\$141.1	\$69.7	\$210.8	\$185.7	\$185.7
Republicans	\$370.4	\$250.0	\$620.4	\$657.1	\$657.1
Total	\$532.7	\$496.0	\$1,028.7	\$1,243.2	\$1,243.2

Source: Federal Election Commission, figures for 2002 election cycle released on March 20, 2003; figures for 2004 election cycle released on February 18, 2005. Figures do not include federal funds raised by state and local party committees.