

April 4, 2012

The Honorable Harry Reid  
Senate Majority Leader  
522 Hart Senate Office Building  
Washington, DC 20510

The Honorable Mitch McConnell  
Senate Minority Leader  
317 Russell Senate Office Building  
Washington, DC 20510

The Honorable John Boehner  
Speaker of the House  
H-232, The Capitol  
Washington, DC 20515

The Honorable Nancy Pelosi  
Minority Leader  
235 Canon House Office Building  
Washington, DC 20515

**RE: Amending the United States Constitution to Reverse the United States Supreme Court Decision in *Citizens United v. Federal Election Commission***

Dear Senate and House Leadership:

We, the undersigned state Attorneys General, are writing to urge you to amend the Constitution to reverse the United States Supreme Court decision in *Citizens United v. Federal Election Commission*.

Reversing this troubling decision would give Congress the power to ensure that the voice of the American people is not diluted or trampled on by corporations under the auspices of the First Amendment, and that the people have the ability to participate freely and equally in self-government.

As you are aware, in January 2010 the Supreme Court handed down its decision in *Citizens United v. Federal Election Commission*, 558 U.S. \_\_\_, 130 S.Ct. 876 (2010). The case overturned elements of the Bipartisan Campaign Reform Act of 2002 (also known as the “McCain-Feingold Act” or “BCRA”) pertaining to the corporate financing of electioneering communications in the run-up to primary and general elections. The Supreme Court ruled that these restrictions on corporate political spending violated the First Amendment’s free speech protections, thereby allowing corporations to spend unlimited amounts of money on elections.

In effect, the *Citizens United* decision overturned a century of jurisprudence, dating back to the Tillman Act of 1907, which supported Congressional authority to restrict corporate political spending on federal elections. With respect to the BCRA, the decision directly overrules key provisions of *McConnell v. Federal Election Commission*, 540 U.S. 93 (2003), which upheld the BCRA provisions that prevented direct expenditures by corporate entities on electioneering communications. Importantly, *Citizens United* kept intact other critical rulings in *McConnell* regarding disclosure requirements. However, by its decision the Court gave corporations the same rights under the First Amendment as individuals, and thereby severely limited Congress’s power to regulate corporate political spending and invalidated bipartisan, democratically-enacted restrictions on corporate behavior.

The *Citizens United* case was of extreme interest to advocates for and against restrictions on unabashed corporate political spending. As a result, a large number of amicus briefs were

filed on behalf of both sides of the issue. Indeed, 26 state Attorneys General joined together in filing an amicus brief arguing that the Supreme Court should leave intact the states' ability to regulate and restrict corporate political spending.

The major concern after the *Citizens United* decision was that it would unleash a torrent of corporate and special interest money into the electoral process due to the flourishing of corporate spending. The 2010 Congressional Elections, which occurred less than a year after the decision, sadly confirmed this fear. Data compiled by OpenSecrets.org, a website run by the Center for Responsive Politics to track money in American politics, shows that the amount of money spent by non-party committees during the 2010 elections was over \$300 million, more than four times the amount of such money spent during the 2006 Congressional Elections.

This trend of increasing expenditures by non-party committees is only going to continue during the 2012 election cycle, which will mark the first Presidential election cycle since the *Citizens United* decision. We have already seen an unprecedented number of outside groups attacking candidates in the Republican presidential primary race. Many of these groups are the so-called "Super PACs." Officially known as independent-expenditure only committees, Super PACs can accept unlimited contributions and therefore amass significant funds with only a few wealthy donors. These committees are allowed to exist under federal appeals court decisions that have been handed down in the wake of *Citizens United*. Although barred from coordinating with specific candidates, many Super PACs support a specific candidate and are run by former staffers of that candidate. As of March 1<sup>st</sup>, in the 2012 election cycle outside organizations have spent \$71,382,728, of which \$61,418,351 was spent by 342 Super PACs. At this early stage of the election cycle and with the general election yet to begin, one can only imagine the final figures for 2012.

The good news is that we can do something to right this wrong. In addition to supporting litigation fighting for states' rights to restrict corporate political spending through amicus briefs and the like, there is a national movement to amend the Constitution to limit First Amendment protections to natural persons, not corporations.

Certainly, amending the United States Constitution is not an easy task, but the Constitution has been successfully amended in the past to correct egregious decisions by the Supreme Court. The passage of an amendment would give Congress the power to put the electoral process back where it belongs: in the hands of the people, not corporations.

For these reasons, we, the undersigned, urge Congress to pass an amendment to reverse *Citizens United*.

Cordially,



Joseph R. Biden, III  
Attorney General of Delaware



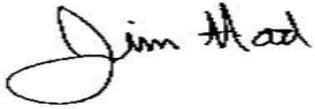
David M. Louie  
Attorney General of Hawaii



Jack Conway  
Attorney General of Kentucky



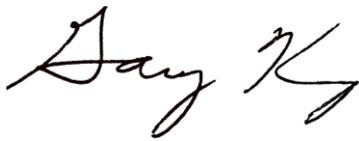
Martha Coakley  
Attorney General of Massachusetts



Jim Hood  
Attorney General of Mississippi



Steve Bullock  
Attorney General of Montana



Gary King  
Attorney General of New Mexico



Eric T. Schneiderman  
Attorney General of New York



Peter F. Kilmartin  
Attorney General of Rhode Island



William H. Sorrell  
Attorney General of Vermont



Darrell McGraw  
Attorney General of West Virginia