

Carey v. FEC and Super PACs Threaten NJ Fair Campaign Contribution Laws

JEFF BRINDLE • June 30, 2011, 12:37

Lately, the term Super PAC has been bandied about.

The term has taken on new prominence following the June 14 decision by the D.C. Federal District Court in [Carey vs. FEC](#).

In that decision, the court addressed the question of whether a federal PAC could establish a separate bank account for the purpose of soliciting contributions in unlimited amounts. Currently, PACs are limited to taking contributions of \$5,000 or less.

The D.C. Court said that it could with one caveat: that those “soft” money donations could only be used by the PAC when it spent independently.

In essence, the court allowed for federal PACs to establish two accounts, one for hard money and one for soft money.

The hard money account, or the one subject to contribution limits, could be used to make direct monetary contributions to federal candidates. The soft money account, used in accepting large, unregulated donations, is for independent spending explicitly.

Thus were born Super PACs.

Super PACs are distinguishable from other outside groups gaining notoriety of late. Unlike 527 organizations or the 501(c) groups, Super PACs register with the Federal Election Commission and disclose their contributions and expenditures.

The 527's and 501(c)'s are largely unregulated.

Already we are seeing an explosion in Super PAC activity. Both Democrats and Republicans are jumping on the bandwagon.

A recent article in the [Huffington Post](#) noted that Senate Majority Leader Harry Reid is soliciting donations for Majority PAC, a Democratic Super PAC.

And presidential candidates on the Republican side are also jumping into the fray. [USA Today](#) reported recently that “several prominent supporters of Mitt Romney on Thursday announced a new group that will spend unlimited sums of money to help the Republican’s presidential campaign.”

The name of the PAC is “Restore Our Future PAC.”

But what does this mean for New Jersey? Lots.

New Jersey law requires the registration and disclosure of contributions to and expenditures by political action committees.

The law also limits contributions in these committees to \$7,200. It limits contributions by these committees to candidates to \$8,200.

New Jersey’s law has worked well. It has provided candidates and political party entities the means to undertake effective campaigns. And it has done so through the implementation of a fair and balanced contribution limit scheme that has been open to public view.

This could all be threatened and upended by the decision in Carey vs. FEC. It has not been determined whether the Supreme Court will take the case on appeal. Either way, it's a good bet that the decision will be upheld.

So in addition to needing legislation that requires disclosure by 527 and 501(c) groups, as proposed by the Election Law Enforcement Commission, thought will now have to be given to how to deal with this emerging trend toward Super PACs.

Jeff Brindle is the Executive Director of the New Jersey Election Law Enforcement Commission.

The opinions presented here are his own and not necessarily those of the Commission.