No. 22-13396

In the
United States Court of Appeals
For the Eleventh Circuit

RYAN GRAHAM, *et al.*,

Plaintiffs – Appellants

v.

GEORGIA ATTORNEY GENERAL, *et al.*

Defendants – Appellees

Appeal from the United States District Court
For the Northern District of Georgia

APPELLANTS' BRIEF

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Graham v. Georgia Attorney General
22-13396

Certificate of Interested Persons and Corporate Disclosure Statement

I hereby certify under Eleventh Circuit Rules 26.1, 26.1-2, and 26.1-3 that these persons and entities have or may have an interest in the outcome:

Burge, David

Carr, Christopher M.

Cohen, Mark H.

Georgia Government Transparency and Campaign Finance Commission

Graham, Ryan

Hicks, Darryl

Kreyenbuhl, James D.

Libertarian Party of Georgia, Inc.

Sells, Bryan

The Law Office of Bryan L. Sells LLC

Thompson, Rick

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Vaughan, Elizabeth

Watts, Robert A.

Webb, Bryan L.

Willard, Russel D.

Young, Elizabeth

No publicly traded company has an interest in the outcome.

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Statement Regarding Oral Argument

This is a constitutional challenge to Georgia's campaign-finance laws. The plaintiffs are the Libertarian Party of Georgia and Ryan Graham, the Libertarian candidate for Lieutenant Governor in 2022. The defendants are state officials who enforce the campaign-finance laws at issue. The district court denied the plaintiffs' motion for a preliminary injunction on the ground that they lack standing to sue the named defendants and must instead sue Graham's political opponent for violating the plaintiffs' First Amendment rights.

Because the district court's ruling on standing conflicts with well-established and binding precedent, oral argument isn't necessary on the plaintiffs' First Amendment claim. And because the district court didn't even address the plaintiffs' Equal Protection claim, oral argument isn't warranted on that issue, either.

If the Court wishes to hear argument anyway, no more than fifteen minutes per side will be necessary.

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Statement of Jurisdiction

This is an interlocutory appeal from the denial of a preliminary injunction on October 6, 2022. The plaintiffs filed a notice of appeal in the district court on the same day. This Court therefore has jurisdiction under 28 U.S.C. § 1292.

Because the plaintiffs' claims are based on the United States Constitution and involve the right to vote, the district court had subject-matter jurisdiction under 28 U.S.C. §§ 1331 and 1343(a)(3)-(4).

Statement of the Issues

1. Do the plaintiffs have standing to bring their First Amendment challenge to Georgia's campaign-finance laws against the state officials who enforce those laws?

2. Do the plaintiffs have standing to bring their Equal Protection challenge to Georgia's campaign-finance laws against the state officials who enforce those laws?

Statement of the Case

I. Georgia's Leadership Committee Statute

The Georgia Government Transparency and Campaign Finance Act, O.C.G.A. § 21-5-1 *et seq.*,[1] prohibits any statewide candidate or campaign committee from receiving aggregate contributions from any person—natural or corporate—exceeding $7,600 for the primary, $7,600 for the general, and $4,500 for a runoff election. O.C.G.A. § 21-5-41(a), (k).[2] Violations of the Act are subject to civil penalties and injunctive relief enforceable by the Georgia Attorney General and the Georgia Government Transparency and Campaign Finance Commission. O.C.G.A. § 21-5-6(b)(14).

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[1] The relevant parts of the Georgia statutes cited in this brief are reproduced in the addendum.

[2] Although the statutory contribution limits are $5,000 for a primary or general election and $3,000 for a runoff, *see* O.C.G.A. § 21-5-41(a), the statute contains an escalator provision based on the Consumer Price Index, *see* O.C.G.A. § 21-5-41(k). The current contribution limits are $7,600 for a primary or general election and $4,500 for a primary or general runoff election. *See Contribution Limits*, Georgia Government Transparency and Campaign Finance Commission, http://ethics.ga.gov/contribution-limits/ (last visited Jan. 2, 2023).

In 2021, the Georgia General Assembly amended the Act to allow for the creation of a "leadership committee" which "may accept contributions or make expenditures for the purpose of affecting the outcome of any election or advocating for the election or defeat of any candidate ...." Act of May 4, 2021, 2021 Ga. Laws 467, 468 (codified at O.C.G.A. § 21-5-34.2(d)). A "leadership committee" is defined as:

> a committee, corporation, or organization chaired by the Governor, the Lieutenant Governor, the nominee of a political party for Governor selected in a primary election in the year in which he or she is nominated, or the nominee of a political party for Lieutenant Governor selected in a primary election in the year in which he or she is nominated. Such term shall also mean up to two political action committees designated by the majority caucus of the House of Representatives, the minority caucus of the House of Representatives, the majority caucus of the Senate, and the minority caucus of the Senate. No person may chair more than one leadership committee.

O.C.G.A. § 21-5-34.2(a). A leadership committee must register with the Georgia Government Transparency and Campaign Finance Commission within ten days of beginning to accept contributions and must disclose contributions or expenditures over $500.00. O.C.G.A. § 21-5-34.2(e).

Importantly, "[t]he contribution limits in Code Section 21-5-41 shall not apply to contributions to a leadership committee or expenditures made by a leadership committee in support of a candidate or a group of named candidates." O.C.G.A. § 21-5-34.2(e). This means that a leadership committee may accept contributions in any amount and is not limited by the current contribution limits for candidates and their campaign committees.

The only individual candidates for statewide office who can form leadership committees and can raise unlimited contributions under the leadership committee statute are the Governor, the Lieutenant Governor, and the nominees of a "political party" for those two offices. O.C.G.A. § 21-5-34.2(a). Georgia law defines "political party" as any political organization which, at the preceding gubernatorial election, nominated a candidate for Governor who polled at least 20 percent of the total vote cast in the state for Governor; or which, at the preceding presidential election, nominated a candidate for President who polled at least 20 percent of the total vote cast in the nation for that office. O.C.G.A. § 21-5-40(6.1) (incorporating the definition of "political party" in O.C.G.A.

§ 21-2-2(25)). And the only political parties in Georgia are the Democratic and Republican parties. (App. 1 at 6.)[3] The Libertarian Party, on the other hand, is a "political body," which is defined as "any political organization other than a political party." O.C.G.A. § 21-2-2(23). As a result, the only candidates for statewide public office who are eligible to form a leadership committee—and thus to accept contributions above the statutory limits—are the candidates for Governor and Lieutenant Governor nominated by the Democratic and Republican parties.

II. Procedural History

The plaintiffs brought this action alleging that the leadership committee statute violates their rights under the First Amendment and the Fourteenth Amendment's Equal Protection Clause. (App. 1 at 7.) They sued the Georgia Attorney General and the Georgia Government Transparency and Campaign Finance Commission.

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[3] Throughout this brief, citations to the appendix will be in the form "Document Number at Page." For court documents, the cited page number is the number that appears in the header generated by the court in which the document was originally filed. A dotted underline indicates a hyperlink to the cited authority.

(*Id.* at 3.) They later added the Commission Chair as a defendant in his official capacity. (App. 14 at 1.)

The plaintiffs sought a preliminary injunction based on both of their constitutional claims. (App. 4 at 6, 9.) They requested an injunction that would either "(1) prohibit the defendants from limiting leadership committees to the nominees of 'political parties,' as that term is defined in Georgia law; or (2) prohibit the defendants from enforcing the leadership committee statute in its entirety." (*Id.* at 13.) And they identified a donor who wanted to contribute more than the statutory limit to Graham's campaign but who had not done so "because of the prospect of being subject to civil and criminal penalties under Georgia law." (App. 11-1 at 2.)

After full briefing and a hearing, the district court denied the motion. (App. 16 at 29.) The court held that the plaintiffs lack standing to bring their First Amendment claim against the named defendants because their constitutional injury is neither traceable to, nor redressable by, those defendants. (*Id.* at 15-20.) While the court found that the plaintiffs had suffered an injury in fact (*id.* at 15), it concluded that the injury was not traceable to any of the

named defendants because none of them "have instituted or threated to institute any action to enforce the [leadership committee statute] against Plaintiffs." (*Id.* at 16.)

The court concluded that the requested injunction would not redress the plaintiffs' injury for two reasons. First, the court stated that it could not prohibit state officials from limiting leadership committees to the nominees of political parties because "[w]hich person may form a leadership committee is a matter of statute and that statute does not purport to give the Commission or any Defendant any discretion in the matter." (*Id.* at 18.) Second, the court asserted that it could not issue either form of the plaintiffs' requested injunction because both of them "would require this Court to rewrite the [leadership committee statute]." (*Id.* at 19.)

The district court then concluded that the plaintiffs were not likely to succeed on the merits of their claim for the same reason that it found a lack of redressability: "because the remedy they seek is an injunction against Defendants that either requires Defendants to treat 'political bodies' as the same as 'political parties' for purposes of the [leadership committee statute] or

precludes Defendants from enforcing the [leadership committee statute] in its entirety." (*Id.* at 26-27.) And the court reiterated that it was "unable to rewrite the [leadership committee statute] in such a manner." (*Id.* at 27.) Instead, the court explained that the only way it could provide relief was to issue "an injunction to prevent [the leadership committee chaired by Graham's Republican opponent, Burt Jones] from soliciting or receiving contributions." (*Id.*)

The plaintiffs appealed and sought summary reversal. A two-judge motions panel of this Court denied the motion without explanation and ordered full briefing on the merits of the appeal.

Standard of Review

This Court reviews the denial of a preliminary injunction for an abuse of discretion. *Indep. Party of Fla. v. Fla. Sec'y of State,* 967 F.3d 1277, 1280 (11th Cir. 2020). It reviews any underlying legal conclusions *de novo* and any factual findings for clear error. *Id.* "'A district court would necessarily abuse its discretion if it based its ruling on an erroneous view of the law or on a clearly erroneous

assessment of the evidence.'" *Highmark Inc. v. Allcare Health Mgmt. Sys., Inc.*, 572 U.S. 559, 563 n.2 (2014) (quoting *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 405 (1990)); *accord Resnick v. Uccello Immobilien GMBH, Inc.*, 227 F.3d 1347, 1350 (11th Cir. 2000) ("An error of law is an abuse of discretion *per se*.").

Summary of the Argument

The plaintiffs here did not sue the wrong defendants, and the district court's holding that they did is legal error. This is a constitutional challenge to Georgia's campaign-finance laws, and there is no dispute here that the named defendants are responsible for enforcing those laws and regularly do so.

The district court's conclusion that the plaintiffs' First Amendment injury it neither traceable to, nor redressable by, the named defendants conflicts with binding precedent. *E.g., Jacobson v. Fla. Sec'y of State*, 974 F.3d 1236 (11th Cir. 2020). Its assertion that the plaintiffs' First Amendment injury is redressable only by an injunction against a private individual has no basis in law or fact. Such a rule conflicts with the state-action doctrine and is

plainly at odds with other cases in which plaintiffs have sued state officials over analogous campaign laws. *E.g., Randall v. Sorrell,* 548 U.S. 230, 248 (2006) (a challenge to state contribution limits brought against "state officials charged with enforcement of [Vermont's campaign-finance laws]").

The district court's legal error infected not only its ruling on standing but also its assessment of the plaintiffs' likelihood of success on their First Amendment claim. And because the plaintiffs' Equal Protection claim is not identical to their First Amendment claim, the district court should have addressed that claim separately before concluding that the plaintiffs lack standing and are not likely to succeed on the merits.

This Court should therefore vacate the district court's order and remand the case for further proceedings.

Argument

I. The plaintiffs have standing to bring their First Amendment claim against the state officials who enforce Georgia's campaign-finance laws.

To establish standing, a plaintiff must show "(1) an injury in fact that (2) is fairly traceable to the challenged action of the defendant and (3) is likely to be redressed by a favorable decision." *Jacobson*, 974 F.3d at 1245. The plaintiffs here can establish all three elements.

First, the injury to the plaintiffs is the threat of prosecution for accepting a contribution that exceeds the statutory limit. In the First Amendment context, a threat of prosecution for engaging in arguably protected activity is a sufficient injury to confer standing. *See Wollschlaeger v. Governor of Fla.*, 848 F.3d 1293, 1304 (11th Cir. 2017) (en banc). "[P]laintiffs do not have to expose themselves to enforcement in order to challenge a law.… Rather, an actual injury can exist when the plaintiff is chilled from exercising her right to free expression or forgoes expression in order to avoid enforcement consequences." *Wilson v. State Bar of Ga.*, 132 F.3d 1422, 1428 (11th Cir. 1998) (citations omitted). *See also ACLU v.*

The Florida Bar, 999 F.2d 1486, 1492 & n.13 (11th Cir. 1993) (explaining that a plaintiff must have an objectively reasonable belief about the likelihood of disciplinary action).

So it is here. Graham identified a political donor who wanted to contribute more than the statutory limit to his campaign. But Graham couldn't accept it because of a reasonable fear that doing so could expose him to prosecution for violating Georgia's campaign-finance laws. That is a sufficient injury for purposes of standing on the plaintiffs' First Amendment claim.[4]

Second, the plaintiffs' injury is directly traceable to the officials who enforce the statute under which Graham would be prosecuted. *See Jacobson,* 974 F.3d at 1253. In this case, those officials are the named defendants. The Georgia Attorney General and the Georgia Government Transparency and Campaign Finance

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[4] Relying on *Davis v. FEC*, 554 U.S. 724, 734-35 (2008), the district court here found that the plaintiffs had alleged an injury in fact "based on the unequal campaign finance scheme established by O.C.G.A. §21-5-34.2." (App. 16 at 15.) In *Davis,* the Supreme Court also found that the plaintiff had suffered an injury based on a "threat that the FEC would pursue an enforcement action" against him. 554 U.S. at 733. Both support the plaintiffs' standing here.

Commission are the only entities charged by state law with enforcing Georgia's campaign-finance laws. *See* O.C.G.A. § 21-5-6(b)(14).

Third, the plaintiffs' injury would likely be redressed by an injunction ordering the named defendants "not to follow the [] statute's instructions." *Jacobson*, 974 F.3d at 1254. Here, an injunction prohibiting the defendants from enforcing the portion of the leadership committee statute that limits leadership committees to the nominees of "political parties" would mean that Graham could create a leadership committee and accept a contribution that exceeds the statutory limit without fear of prosecution. The chilling effect on the plaintiffs' First Amendment activity would vanish.[5]

The district court's conclusion that the plaintiffs' First Amendment injury isn't traceable to the named defendants because none of them "have instituted or threatened to institute" an

[5] An injunction striking down the leadership committee statute in its entirety would redress the unequal-treatment injury on which the district court relied because all candidates would then be subject to the contribution limits in O.C.G.A. § 21-5-41. *C.f., Davis*, 554 U.S. at 744-45.

enforcement action is legal error. (App. 16 at 16.) That rationale speaks to whether the plaintiffs have suffered an injury in fact—not whether that injury is traceable to the named defendants. Traceability here depends on *who* would bring an enforcement action, and there is no dispute that the named defendants are responsible for enforcing Georgia's campaign-finance laws.

In addition, the standard for determining whether a plaintiff has suffered an injury in fact based on a future enforcement action is not whether there is an actual prosecution or an actual threat but whether a plaintiff has a reasonable fear of one. *See ACLU*, 999 F.2d at 1492-93. And though the court made no findings about the plaintiffs' fear of prosecution here, there is no reason to think that Graham wouldn't face prosecution if he openly flouted Georgia's contribution limits. The defendants have given him no such assurance. Nor have they even suggested that Graham would not or could not face prosecution for accepting a contribution above the statutory limit. The Commission vigorously enforces Georgia's

campaign-finance laws,[6] and the appellees have vigorously defended the enforceability of the statutes at issue here. Graham thus had good reason to worry about prosecution if he accepted the contribution that was offered to him. *See, e.g., Virginia v. Am. Booksellers Ass'n, Inc.*, 484 U.S. 383, 393 (1988) (concluding that the plaintiffs had a "well-founded fear that the law will be enforced against them" where "[t]he State has not suggested that the newly enacted law will not be enforced").

The district court's conclusion that the requested injunction wouldn't redress the plaintiffs' injury because the leadership committee statute "does not purport to give the Commission or any Defendant any discretion" in deciding which candidates can establish leadership committees was also legal error. (App. 16 at 18.) The question for redressability is not whether a named defendant can provide relief by *following* a challenged statute but whether an injunction ordering the defendants "not to follow the []

[6] *See Final Orders*, Georgia Government Transparency and Campaign Finance Commission, https://ethics.ga.gov/final-orders/ (last visited January 6, 2023).

statute's instructions" would redress the plaintiffs' injury. *Jacobson*, 974 F.3d at 1254. And here it clearly would. An injunction prohibiting the named defendants from following the portion of O.C.G.A. § 21-5-34.2(a) limiting eligibility to Democratic and Republican candidates would provide complete relief because Graham could then establish a leadership committee and accept a contribution that exceeds the statutory limit without fear of prosecution.

The district court's related conclusion that it couldn't redress the plaintiffs' injury because the requested injunction "would require this Court to rewrite the [leadership committee statute]" is also incorrect. (App. 16 at 19.) One form of the requested injunction would have prohibited the named defendants from enforcing the portion of the leadership committee statute that limits leadership committees to the nominees of "political parties." The other would have prohibited the defendants from enforcing the leadership committee statute in its entirety. Neither form is beyond the district court's power. Indeed, federal courts have the power under the Supremacy Clause of the United States Constitution to enjoin

unconstitutional state statutes, and they routinely use that power when, as here, relief is necessary to protect federal rights. The Supreme Court, for example, has struck down portions of Vermont's campaign-finance laws. *See Randall,* 548 U.S. at 262-63; *see also Wollschlaeger,* 848 F.3d at 1319 (upholding a permanent injunction that prohibited the Florida Governor and other state officials from enforcing unconstitutional parts of a state statute). The district court's assertion that it was "unable" to enjoin the leadership committee statute was thus unfounded. (App. 16 at 27.)

Finally, the district court's assertion that the plaintiffs have sued the wrong defendants here because their First Amendment injury is redressable only by an injunction against Graham's opponent has no basis in law or fact. Graham's opponent doesn't enforce Georgia's campaign-finance laws. He is a private individual. He "didn't do (or fail to do) anything that contributed" to Graham's fear of prosecution for accepting a contribution that exceeds the statutory limit. *Jacobson*, 974 F.3d at 1253 (quoting *Lewis v. Governor of Ala.*, 944 F.3d 1287, 1301 (11th Cir. 2019) (en banc)). Likewise, an injunction prohibiting Graham's opponent

from accepting contributions that exceed the statutory limit wouldn't remove the threat of prosecution against Graham if he were to accept a contribution that exceeds the statutory limit. The plaintiffs' First Amendment activity would remain chilled.

The district court cited no cases holding that a political opponent is the only proper defendant in a constitutional challenge to state campaign-finance laws. Such a rule would run afoul of well-established state-action doctrine. *See, e.g., United Egg Producers v. Standard Brands, Inc.*, 44 F.3d 940, 942 (11th Cir. 1995) ("Without governmental action there can be no First Amendment violation."). *But see One Georgia, Inc. v. Carr,* ___ F. Supp. 3d ____, 2022 WL 1284238, at *10 (N.D. Ga. Apr. 28, 2022) (holding that the sitting governor's campaign committee is a state actor), *appeal dismissed as moot,* No. 22-11495 (11th Cir. Aug. 2, 2022). And its holding is plainly at odds with other cases in which plaintiffs have sued state or federal officials over analogous contribution limits. *See, e.g., Randall,* 548 U.S. at 240 (a challenge to state contribution limits brought against "state officials charged with enforcement of [Vermont's campaign-finance laws]"); *Davis*, 554 U.S. at 731-35 (a

challenge to federal contribution limits brought by a congressional candidate solely against the FEC).

The plaintiffs here did not sue the wrong defendants, and the district court's holding that they did is legal error. That error infected not only its ruling on standing but also its assessment of the plaintiffs' likelihood of success. This Court should therefore vacate the district court's order and remand the case to the district court for further proceedings.

II. The plaintiffs also have standing to bring their Equal Protection claim against the state officials who enforce Georgia's campaign-finance laws.

The plaintiffs also sued the right defendants under the Equal Protection Clause. And because the plaintiffs' Equal Protection claim isn't identical to their First Amendment claim, the district court should have addressed it separately before concluding that the plaintiffs lack standing and aren't likely to succeed on the merits.

To begin, the plaintiffs' Equal Protection injury is different from their First Amendment injury. On this claim, the injury is not

a threat of prosecution that chills protected activity. For an Equal Protection claim, the injury-in-fact element of standing is "the denial of equal treatment." *N.E. Fla. Chapter of Associated Gen. Contractors v. Jacksonville*, 508 U.S. 656, 666 (1993); *accord Orr v. Orr*, 440 U.S. 268, 271-73 (1979). Here, the denial of equal treatment is apparent from the face of the leadership committee statute, which denies Graham the opportunity to create a leadership committee because he is the nominee of a political body rather than a "political party." O.C.G.A. § 21-5-34.2(a)

The plaintiffs' Equal Protection injury is directly traceable to the named defendants' enforcement of O.C.G.A. § 21-5-34.2(a), which contains the statutory classification giving a benefit to Graham's opponent but not to him. And the plaintiffs' Equal Protection injury would be redressed by an injunction either prohibiting the named defendants from applying that classification or prohibiting them from enforcing the statute in its entirety. Either injunction would result in equal treatment.

The district court didn't mention the plaintiffs' Equal Protection claim or the primary case on which they relied, *Riddle v.*

Hickenlooper, 742 F.3d 922, 927 (10th Cir. 2014) (holding that differential contribution limits for third-party candidates violate the Equal Protection Clause), which was brought solely against the state officials responsible for enforcing Colorado's unequal contribution limits. While not controlling, *Riddle* is on point here, and there are no contrary rulings among the other circuits.

The district court's failure to address the plaintiffs' Equal Protection claim was itself reversible error. *See Cowen v. Ga. Sec'y of State*, 960 F.3d 1339, 1346-47 (11th Cir. 2020) (reversing a district court because it "did not separately address the [plaintiffs'] Equal Protection challenge"). Its conclusion that the plaintiffs lack standing and aren't likely to succeed without considering their Equal Protection claim was also legal error that constitutes an abuse of discretion *per se*. This Court should therefore vacate the district court's order and remand the case for further proceedings.

Conclusion

The Court should vacate the district court's order denying the plaintiffs' motion for a preliminary injunction and remand the case

to the district court for further proceedings consistent with the conclusion that the plaintiffs' constitutional injuries are traceable to the named defendants and redressable by an injunction against them.

Dated: January 9, 2023

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Certificate of Compliance

This brief complies with the type-volume limitation of Rule 32(a)(7)(B)(i) of the Federal Rules of Appellate Procedure because, excluding parts of the brief exempted by Rule 32(f), it contains 3,687 words. This brief also complies with the typeface and type-style requirements of Rule 32(a)(5) and (6) because it has been prepared in the 14-point Century Schoolbook typeface in roman style.

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Addendum

O.C.G.A. § 21-2-2

21-2-2. Definitions.

As used in this chapter, the term:

* * *

(23) "Political body" or "body" means any political organization other than a political party.

* * *

(25) "Political party" or "party" means any political organization which at the preceding:

(A) Gubernatorial election nominated a candidate for Governor and whose candidate for Governor at such election polled at least 20 percent of the total vote cast in the state for Governor; or

(B) Presidential election nominated a candidate for President of the United States and whose candidates for presidential electors at such election polled at least 20 percent of the total vote cast in the nation for that office.

* * *

O.C.G.A. § 21-5-1

21-5-1. Short title.

This chapter shall be known as and may be cited as the "Georgia Government Transparency and Campaign Finance Act."

O.C.G.A. § 21-5-6

21-5-6. Powers and duties of the commission.

* * *

(b) The commission shall have the following duties:

* * *

(14) To issue orders, after the completion of appropriate proceedings, directing compliance with this chapter or prohibiting the actual or threatened commission of any conduct constituting a violation. Such order may include a provision requiring the violator:

(A) To cease and desist from committing further violations;

(B) To make public complete statements, in corrected form, containing the information required by this chapter;

(C)

(i) Except as provided in paragraph (2) of Code Section 21-5-7.1, to pay a civil penalty not to exceed $1,000.00 for each violation contained in any report required by this chapter or for each failure to comply with any other provision of this chapter or of any rule or regulation promulgated under this chapter; provided, however, that a civil penalty not to exceed $10,000.00 may be imposed for a second occurrence of a violation of the same provision and a civil penalty not to exceed $25,000.00 may be imposed for each third or subsequent occurrence of a violation of the same provision. In imposing a penalty or late filing fee under this chapter, the commission may waive or suspend such penalty or fee if the imposition of such penalty or fee would impose an undue hardship on the person required to pay such penalty or fee. The commission may also waive or suspend a penalty or fee in the case of failure to file or late filing of a report if there are no items to be included in the report. For the purposes of the penalties imposed by this division, the same error, act, omission, or inaccurate entry shall be considered a single

violation if the error, act, omission, or inaccurate entry appears multiple times on the same report or causes further errors, omissions, or inaccurate entries in that report or in any future reports or further violations in that report or in any future reports.

(ii) A civil penalty shall not be assessed except after notice and hearing as provided by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." The amount of any civil penalty finally assessed shall be recoverable by a civil action brought in the name of the commission. All moneys recovered pursuant to this Code section shall be deposited in the state treasury.

(iii) The Attorney General of this state shall, upon complaint by the commission, or may, upon the Attorney General's own initiative if after examination of the complaint and evidence the Attorney General believes a violation has occurred, bring an action in the superior court in the name of the commission for a temporary restraining order or other injunctive relief or for civil penalties for a

violation of any provision of this chapter or any rule or regulation duly issued by the commission.

(iv) Any action brought by the Attorney General to enforce civil penalties for a violation of the provisions of this chapter or of any rule or regulation duly issued by the commission or any order issued by the commission ordering compliance or to cease and desist from further violations shall be brought in the superior court of the county of the residence of the party against whom relief is sought. Service of process shall lie in any jurisdiction within the state. In such actions, the superior court inquiry shall be limited to whether notice was given by the commission to the violator in compliance with the Constitution and the rules of procedure of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." Upon satisfaction that notice was given and a hearing was held pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," the superior court shall enforce the orders of the commission and the civil penalties assessed under this chapter and the superior court shall not

make independent inquiry as to whether the violations have occurred.

(v) In any action brought by the Attorney General to enforce any of the provisions of this chapter or of any rule or regulation issued by the commission, the judgment, if in favor of the commission, shall provide that the defendant pay to the commission the costs, including reasonable attorneys' fees, incurred by the commission in the prosecution of such action.

* * *

O.C.G.A. § 21-5-34.2

21-5-34.2. Leadership committee defined; operation; separate from campaign committees.

(a) As used in this Code section, the term "leadership committee" means a committee, corporation, or organization chaired by the Governor, the Lieutenant Governor, the nominee of a political party for Governor selected in a primary election in the year in which he or she is nominated, or the nominee of a political party for

Lieutenant Governor selected in a primary election in the year in which he or she is nominated. Such term shall also mean up to two political action committees designated by the majority caucus of the House of Representatives, the minority caucus of the House of Representatives, the majority caucus of the Senate, and the minority caucus of the Senate. No person may chair more than one leadership committee.

(b) A leadership committee may receive contributions from persons who are members or supporters of the leadership committee and expend such funds as permitted by this Code section.

(c) If a person chairing a leadership committee ceases to hold the office or the status as a nominee of a political party as described in subsection (a) of this Code section, such person shall transfer the remaining assets of the leadership committee, if any, to another leadership committee within 60 days, name an eligible person as the new chairperson of the leadership committee within 60 days, or dispose of the leadership committee's assets as provided by Code Section 21-5-33.

(d) A leadership committee may accept contributions or make expenditures for the purpose of affecting the outcome of any election or advocating for the election or defeat of any candidate, may defray ordinary and necessary expenses incurred in connection with any candidate's campaign for elective office, and may defray ordinary and necessary expenses incurred in connection with a public officer's fulfillment or retention of such office.

(e) A leadership committee which accepts contributions or makes expenditures in excess of $500.00 shall register with the commission within ten days of such accepted contribution or such expenditure and, thereafter, shall file disclosure reports pursuant to the schedule defined for candidates and campaign committees in subsection (c) of Code Section 21-5-34. Such disclosure reports shall be made pursuant to subsection (b) of Code Section 21-5-34. The contribution limits in Code Section 21-5-41 shall not apply to contributions to a leadership committee or expenditures made by a leadership committee in support of a candidate or a group of named candidates. All communications paid for by expenditures of the leadership committee shall contain a disclaimer, either audibly or

in writing, that the communication is paid for by the leadership committee, unless such disclaimer is impractical.

(f) A leadership committee shall be a separate legal entity from a candidate's campaign committee and shall not be considered an independent committee.

O.C.G.A. § 21-5-40

21-5-40. Definitions.

As used in this article, the term:

* * *

(6.1) "Political party" means any political party as that term is defined in paragraph (25) of Code Section 21-2-2, as amended; provided, however, that for purposes of this article, local, state, and national committees shall be separate political parties.

* * *

O.C.G.A. § 21-5-41

21-5-41. Maximum allowable contributions.

(a) No person, corporation, political committee, or political party shall make, and no candidate or campaign committee shall receive

from any such entity, contributions to any candidate for state-wide elected office which in the aggregate for an election cycle exceed:

(1) Five thousand dollars for a primary election;

(2) Three thousand dollars for a primary run-off election;

(3) Five thousand dollars for a general election; and

(4) Three thousand dollars for a general election runoff.

* * *

(k) At the end of each gubernatorial election cycle, the contribution limitations in this Code section shall be raised or lowered in increments of $100.00 by order of the commission pursuant to a consideration by the commission of inflation or deflation during such cycle or four-year period, as determined by the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor, and such limitations shall apply until next revised by the commission. The commission shall adopt rules and regulations for the implementation of this subsection.