The Feds Take On Political Advertising Groups

The Federal Election Commission sues the Club for Growth, a conservative political group, and may launch probes into similar organizations

By VIVIKA NOVAK

A campaign-finance loophole is suddenly getting squeezed. A year after so-called 527 political groups, like Swift Boat Veterans for Truth and America Coming Together, played a pivotal role in the election and drew the ire of political figures on both sides of the aisle, the Federal Election Commission is taking closer look at their activities. The agency filed suit last week against the Club for Growth, a pro-free-market, anti-tax group that raised $5.5 million last year and targeted, among others, former Senate Majority Leader Tom Daschle. The FEC's lawsuit, which accuses the conservative group of operating as a political committee which is therefore subject to campaign-contribution limits, could be the first in a string of similar actions. America Coming Together, the mammoth pro-Democratic voter-mobilization group, also being investigated by the FEC, the group's former CEO, Dave Rosenthal, told TIME. America Coming Together and its counterpart, the Media Fund, raised nearly $200 million in the 2004 election cycle for get-out-the-vote efforts and ads in battleground states. Election lawyers in Washington say the FEC has been preparing other 527s with subpoena power.

In the aftermath of campaign-finance reform, 527 committees are among the few permissible repositories of big-dollar political donations, and they have become havens for individuals pushing particular issues or agendas. Under current election law, 527 committees that aren't registered with the FEC can raise unlimited amounts of money and use it for advertising and other activities, as long as they don't specifically advocate the election or defeat of a particular candidate. The agency attempted but failed last year to come up with regulations to rein in the groups, and its attempt to do so now through litigation is raising the hackles of some campaign-finance lawyers. "What the FEC is doing is chilling speech," as the First Amendment defines it, says attorney Ken Gross.

Even if the FEC's lawsuit doesn't hold up in court, the uncertainty over the legal status of 527s may be enough to dampen their effectiveness. Without clear regulations but with at least some sort of limits on spending and other probes in progress, the groups and their would-be donors won't be sure what they're allowed to do, Gross says.

If the FEC wins its suit against the Club for Growth, the agency wants the group to return millions in donations and pay an unspecified fine. It also sues Rosenthal's group in a separate suit for the $200 million it received from America Coming Together recently folded its tent, leaving little but a mailing address. In the meantime, the lawsuit is shaking up the political work just as fundraising for congressional midterm elections kicks into gear.

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