IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

In the Matter of: **Validation Proceeding to Determine the Regularity and Legality of Multnomah County Home Rule Charter Section 11.60 and Implementing Ordinance No. 1243 Regulating Campaign Finance and Disclosure**	**Case No. 17CV18006** **OPINION AND ORDER, UPON REMAND, RE:** **Petitioner Multnomah County's Motion for Declaration of Validity under the First Amendment to the United States Constitution**

This matter comes before the court on remand from the Oregon Supreme Court, after reversal of this court's determination the campaign contribution limit governing county elections established by Multnomah County Code (MCC) §§ 5.200–203[1] violated Article I, Section 8 of the Oregon Constitution. *Multnomah County et al v. Mehrwein et al.*, 366 Or. 295, 313, 322 (2020). In reaching the decision in *Mehrwein*, Chief Justice Walters, writing for the Court, expressly rejected the reasoning and result of *Vannatta v. Keisling*, 324 Or. 514 (1997) which was controlling precedent for this court's analysis and decision, thus overruling a case which had guided the application of the framework established in *State v. Robertson*, 293 Or. 402, 412 (1982) for determining which laws are subject to a facial challenge under Article I, Section 8, of the Oregon Constitution. Having thereby concluded the Multnomah County campaign contribution limit was not facially invalid under Article I, Section 8, the *Mehrwein* court

[1] MCC §§ 5.200–203 were adopted by Ordinance No. 1243, implementing amendments to the Multnomah County Home Rule Charter containing campaign finance provisions based upon Multnomah County voters' approval of Measure 26-184 in the November 2016 election.

remanded to this court with instructions to develop a factual record and decide a question this court did not reach in its original decision: whether the Multnomah County campaign contribution limit is valid under the First Amendment to the United States Constitution. *Id.* at 332–33.

I. MCC § 5.201

In November 2016, Multnomah County (County) voters approved Measure 26-184, which incorporated campaign finance regulation into the Multnomah County Home Rule Charter, codified in Section 11.60. The Board of County Commissioners subsequently adopted that section in the same form in Ordinance No. 1243, now codified as MCC 5.200–206.

MCC § 5.201(B) provides that, during an election cycle, candidates can receive $500 from individuals and political committees, unlimited amounts from small donor committees (political committees that accept contributions of only $100 or less per individual per year), and no contributions from other entities. It is this campaign contribution limit that will be the subject of the court's constitutional analysis, *infra*.

II. Constitutional Standard

In the seminal election law case of *Buckley v. Valeo*, 424 U.S. 1, 20 (1976), the U.S. Supreme Court held that, although contribution limits implicate First Amendment rights, "a limitation upon the amount that any one person or group may contribute to a candidate or political committee entails only a marginal restriction upon the contributor's ability to engage in free communication." Drawing upon *Buckley* and its progeny over the course of some fifty years, the U.S Supreme Court and lower courts reviewing campaign contribution limits for constitutional validity have imposed a less heightened degree of scrutiny, "akin to intermediate scrutiny." *Zimmerman v. City of Austin, Texas*, 881 F.3d 378, 385 (5th Cir. 2018).

Under this "intermediate scrutiny" standard, the government does not have to show that in enacting the limits on campaign contributions it has used the least restrictive means available. *McCutcheon v. FEC*, 572 U.S. 185, 218 (2014). Instead, the reviewing court determines whether the government has demonstrated a "sufficiently important interest" in doing as it has, and also that it has used "means closely drawn to avoid unnecessary abridgment of associational freedoms." *Buckley*, 424 U.S. at 25 (internal quotation omitted).

Additionally, the reviewing court typically affords the enacting government's determinations significant deference:

> [W]e have no scalpel to probe each possible contribution level. We cannot determine with any degree of exactitude the precise restriction necessary to carry out the statute's legitimate objectives. In practice, the legislature is better equipped to make such empirical judgments, as legislators have particular expertise in matters related to the costs and nature of running for office. Thus, ordinarily we have deferred to the legislature's determination of such matters.

Randall v. Sorrell, 548 U.S. 230, 248 (2006) (internal citations and quotations omitted).

III. Analysis

a. Government interest

The U.S. Supreme Court has recognized one government interest to be "sufficiently important" to justify campaign contribution limits: deterring actual *quid pro quo* corruption or its appearance. *Thompson v. Hebdon*, 140 S.Ct. 348, 349 (2019); *see also McCutcheon v. Federal Election Comm'n*, 572 U.S. 185, 192 (2014). Although the quantum of evidence required to justify that interest is low, the government must offer more than "mere conjecture." *Thompson*, 140 S.Ct. at 349; *Montana Right to Life Ass'n v. Eddleman*, 343 F.3d 1085, 1092 (9th Cir. 2003).

Here, Petitioner Multnomah County and the Intervenor citizen parties have offered substantial evidence to support the County's important interest in deterring actual and apparent

quid pro quo corruption.

The U.S. Supreme Court has recognized that, though not dispositive, strong voter support for campaign finance reform "attest[s] to the perception" of corruption held by the voters. *Nixon v. Shrink Missouri Government PAC*, 528 U.S. 377, 394 (2000); *see also Zimmerman*, 881 F.3d 378, 386 (5th Cir. 2018). Here, 88.57% of voters cast their ballots in favor of the County measure establishing a contribution limit. This large majority certainly attests to the wide-spread perception of corruption among the residents of Multnomah County engendered by unregulated campaign contributions in county elections

Additionally, the initial County Charter amendment was created and sent to the voters by a citizen-led Charter Review Committee, and the report prepared by that committee for the Board of Commissioners concluded that "[e]xcessive money in politics undermines our democratic institutions and confidence in government" and that "[w]ithout limits on the size of campaign contributions and independent expenditures, the wealthy and corporations have undue power to influence election and policy outcomes." Petition, Ex. 2, at 10–14.

Numerous declarations filed on behalf of the County and Intervenors further support the substantiality of the County's interest to combat actual and apparent corruption through the enactment of contribution limitations. Of particular relevance here is the sworn declaration of Diane Linn, in which she states:

> 1. I was elected to the Multnomah County Commission and served there from 1999 to 2007. I was elected as Multnomah County Chair and served in that position from 2001 to 2007.
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> 2. When I ran for public office for two Multnomah County Commission positions, there were overtures from potential or actual donors that they expected access to me, if I were elected. Some made it clear that if I took a position on an issue in which they had an interest, they would base future support on my adherence to their position. I lost support from several large donors when I voted against their

interests or took controversial positions.

3. When a company or major donor could give unlimited amounts, their expectations of how I should vote were, in some cases, made very clear to me. The larger the donor, in some cases, the more influence they expected to have. When sometimes I did not agree, I lost their future support.

Decl. Linn, at 1.

The evidence provided by the County and Intervenors is precisely the type of evidence found to be sufficient in *Shrink Missouri* and *Zimmerman*, among other cases, and is sufficient here to support Multnomah County's important government interest in deterring actual or apparent *quid pro quo* corruption through the enactment of a campaign contribution limitation.

b. Means Closely Drawn

Having determined, based upon the evidentiary record, that an important government interest exists to support Multnomah County's contribution limit, the remaining question for this court is whether that limit is "closely drawn to avoid unnecessary abridgment" of First Amendment rights. *See Buckley*, 424 U.S. at 25. Aiding in analysis of this question, the U.S Supreme Court has identified four "danger signs" that may indicate contribution limits are not closely drawn and are thus at risk of "preventing challengers from mounting effective campaigns against incumbent officeholders, thereby reducing democratic accountability." *Randall v. Sorrell*, 548 U.S. 230, 249 (2006). In the situation where the "danger signs" strongly indicate that such a risk exists, "courts, including appellate courts, must review the record independently and carefully with an eye toward assessing the statute's tailoring," by then assessing five factors set out in *Randall*. *Id.* at 249, 253.

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i. Four "Danger Signs"

In *Randall*, the Court reviewed the constitutionality of contribution limits imposed in Vermont. With a population of 621,000 in 2006, Vermont imposed state-wide contribution limits as follows:

> The amount any single individual can contribute to the campaign of a candidate for state office during a "two-year general election cycle" is limited as follows: governor, lieutenant governor, and other statewide offices, $400; state senator, $300; and state representative, $200. § 2805(a). Unlike its expenditure limits, Act 64's contribution limits are not indexed for inflation.

548 U.S. 230, 238 (2006).

The Court identified four "danger signs" which courts now look to in assessing whether "contribution limits prevent candidates from amassing the resources necessary for effective [campaign] advocacy," such that they "magnify the advantages of incumbency to the point where they put challengers to a significant disadvantage." *Id.* at 248. Those danger signs are: (1) contribution limits substantially lower than those previously upheld under U.S. Supreme Court precedent; (2) contribution limits that are substantially lower than comparable limits in other states; (3) contribution limits that do not allow political parties to give greater amounts than other contributors; and (4) contribution limits set per election cycle which do not reset between the primary and general elections. *See id.* at 248–52.

Turning to Multnomah County's contribution limit, the record evidence suggests the first *Randall* "danger sign" may be implicated, because the County's limit is lower than limits upheld by the Supreme Court in the past. As noted by the Oregon Supreme Court in *Mehrwein*, the County's 2-year $500 campaign contribution limit "is less than a third of the limit upheld in *Shrink Missouri*." 366 Or. 295, 328 (citing *Thompson*, 140 S.Ct. at 351). The County's limit is also effectively lower than Alaska's 1-year $500 limit that was of some concern to the U.S.

Supreme Court in *Thompson*. *Id.*

Offsetting this potential "danger sign" is that the County's limit only applies to its own elections, whereas the limits addressed in *Shrink Missouri* and *Thompson* applied state-wide. *See Shrink Missouri*, 528 U.S. 377, 381; *Thompson*, 140 S.Ct. at 349.

Regarding the second "danger sign," the court considers whether Multnomah County's limit is "substantially lower" than limits in other comparable jurisdictions.[2]

Census data provides that Multnomah County had an estimated population size in 2019 of approximately 812,000.[3] Additionally, the population sizes of each of the four Commissioner districts within the County are approximately 200,000.

The Intervenors provided numerous examples of other states, counties, and cities where comparable contribution limits have been established and have not been struck down. The Fifth Circuit Court of Appeals upheld a $350 contribution limit per election in the city of Austin, Texas, which in 2019 had a population of nearly one million. *See Zimmerman v. City of Austin, Texas*, 881 F.3d 378, 387–88 (2018). The city of San Francisco established a contribution limit of $500 per election where the estimated 2019 population was approximately 881,000. *See* Petitioner's Memorandum on Remand, at 17; San Francisco Campaign and Governmental Conduct Code § 1.114(a). The City of San Diego, with an estimated 2019 population of 1,423,000, [4] established individual contribution limit of $500 per election for Council District

[2] Though population size is a relevant factor when comparing jurisdictions, the *Randall* Court noted that population size must also be considered with other factors, such as the positions to which the contribution limit applies. *See Randall*, 548 U.S. at 251–52. For example, state-wide contribution limits, such as those in *Thompson* and *Shrink Missouri*, restrict contributions for positions such as governor, a campaign for which may often be more costly than a campaign for county commissioner, even if the population size for a given state and county are roughly equal.
[3] *See* UNITED STATES CENSUS BUREAU, QUICKFACTS (July 1, 2019), https://www.census.gov/quickfacts/fact/table/multnomahcountyoregon,US/PST045219#PST045219.
[4] *See* UNITED STATES CENSUS BUREAU, QUICKFACTS (July 1, 2019), https://www.census.gov/quickfacts/fact/table/sandiegocitycalifornia,US/PST045219.

office candidates (adjusted for inflation, now $600[5]) and that limit was upheld against constitutional challenge. *See Thalheimer v. City of San Diego*, 2012 WL 177414, at *1 (S.D. Cal. 2012) (". . . the [$500] limit also appears to be comparable with the contribution limits in Los Angeles ($500/$1,000), Phoenix ($488), San Antonio ($500/$1,000), San Jose ($200/$500), Jacksonville ($500/$500), and San Francisco ($500/$500)."). The state of Colorado established an individual contribution limit of $200 per election for both chambers of its state legislature, where the estimated 2019 state population was approximately 5,758,000.[6] *See* Decl. Meek, Ex. 1, at 1. The state of Maine established an individual contribution limit of $400 per election for both chambers of its state legislature, where the estimated 2019 state population was approximately 1,344,000.[7] *See* Decl. Meek, Ex. 1, at 1. Ventura County in California established an individual contribution limit of $750 per election for county office, where the estimated 2019 county population was approximately 846,000.[8] *See* Reply Brief of the Citizen Parties, Ex. R3, at 2.

Additionally, the court considers the Alaska contribution limit reviewed in the *Thompson v. Hebdon* cases to be instructive here.[9] In its initial review, the Ninth Circuit Court of Appeals upheld the U.S. District Court's ruling that Alaska's state-wide $500 individual contribution limit per election—effectively $1,000 per election cycle and applying to candidates at all levels—was constitutional. 909 F.3d 1027, 1039 (2018). There the Ninth Circuit found:

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[5] *See* SAN DIEGO ETHICS COMMISSION, 2020 CANDIDATE MANUAL (2020), available at https://www.sandiego.gov/sites/default/files/candidatemanual_2020.pdf.
[6] *See* UNITED STATES CENSUS BUREAU, QUICKFACTS (July 1, 2019), https://www.census.gov/quickfacts/fact/table/CO,US/PST045219.
[7] *See* UNITED STATES CENSUS BUREAU, QUICKFACTS (July 1, 2019), https://www.census.gov/quickfacts/fact/table/ME,US/PST045219.
[8] *See* UNITED STATES CENSUS BUREAU, QUICKFACTS (July 1, 2019), https://www.census.gov/quickfacts/fact/table/venturacountycalifornia,US/PST045219; *see also* Ventura, Cal., Ordinance 4510, § 1268 (Apr. 25, 2017), available at https://www.fppc.ca.gov//content/dam/fppc/NS-Documents/TAD/Campaign%20Ordinances/Counties/R_Ventura.pdf.
[9] For reference, Alaska's estimated population in 2019 was approximately 731,000.*See* UNITED STATES CENSUS BUREAU, QUICKFACTS (July 1, 2019), https://www.census.gov/quickfacts/fact/table/AK,US/PST045219.

> Moreover, although the $500 limit is on the low-end of the range of limits adopted by various states, it is not an outlier. At least four other states (Colorado, Kansas, Maine, and Montana) have the same or lower limit for state house candidates, as do at least five comparably sized cities (Austin, Portland, San Francisco, Santa Cruz, and Seattle). We recently upheld a comparable limit. *Lair III*, 873 F.3d at 1174 tbls. 2 & 3.

909 F.3d at 1037.

On appeal to the United States Supreme Court, the Court vacated the Ninth Circuit's judgement, and remanded for that court to consider the *Randall* factors in its analysis, which the Court of Appeals had declined to do in favor of its circuit precedent. *Thompson v. Hebdon*, 140 S.Ct. 348, 351 (2019). In its decision, the Supreme Court observed that several of the "danger signs" it had identified in *Randall* appeared present in Alaska's contribution limit. *See id.* at 350–51.

The Court noted, for example, that the Alaska limit was lower than limits upheld by the Supreme Court in the past, as well as lower than comparable limits in other States. *Id.* The Court also observed that, in comparison to the five other states with a contribution limit of $500 or less, Alaska's limit applied uniformly to all offices in the state, while the other states set higher limits for certain offices. *Id*. at 351. Additionally, the Court pointed to the lack of adjustment in Alaska's limit for inflation. Justice Ginsburg, while joining in the decision to remand, wrote in a statement her view that "Alaska's law does not exhibit certain features found troublesome in Vermont's law" in *Randall*.

Here, the County's $500 contribution limit is distinguishable from the features of concern to the Court in *Thompson*. The limit applies only at the County level and not to all state offices, it adjusts for inflation, and, as addressed below, it does not raise significant issue regarding restricting contributions by political parties.

Thus, the record evidence demonstrates that the County's $500 contribution limit is not an outlier, in that it is comparable to, rather than "substantially lower" than, comparable jurisdictions. Thus, the second *Randall* "danger sign" is not present regarding the County's limit.

The third *Randall* "danger sign" is a contribution limit that does not allow political parties to give greater amounts than other contributors. *See* 548 U.S. at 252. The *Randall* Court explained this "danger sign" implicated by the Vermont limit as follows:

> The Act applies its $200 to $400 limits—precisely the same limits it applies to an individual—to virtually all affiliates of a political party taken together as if they were a single contributor. Vt. Stat. Ann., Tit. 17, § 2805(a) (2002). That means, for example, that the Vermont Democratic Party, taken together with all its local affiliates, can make one contribution of at most $400 to the Democratic gubernatorial candidate, one contribution of at most $300 to a Democratic candidate for State Senate, and one contribution of at most $200 to a Democratic candidate for the State House of Representatives.
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> We consequently agree with the District Court that the Act's contribution limits "would reduce the voice of political parties" in Vermont to a "whisper." 118 F.Supp.2d, at 487. And we count the special party-related harms that Act 64 threatens as a further factor weighing against the constitutional validity of the contribution limits.

Id. at 257, 259.

Here, the County's limit does not restrain what political parties can contribute to those parties' candidates. The limit applies only to Multnomah County public offices, which are elected on a nonpartisan basis. Nor does it impose any limit on what any individual or entity can contribute to a political party. The Declaration of Seth Woolley documents that the ORESTAR system does not show that Oregon political parties have contributed to candidates for Multnomah County office.

Additionally, the County's limit applies to a political committee, not a political party. A

party can create any number of political committees under Oregon law. For example, there are separate political committees for county-level parties, including what are labelled "Small Donor Committees" (SDCs), which can contribute an unlimited amount to any Multnomah County candidate provided the SDC does not accept more than $100 per individual contributor per year. *See* MCC §§ 5.201(B)(2), 5.200 (definition of small donor committee).

For those reasons, the court finds the third *Randall* "danger sign" is not implicated by the County's contribution limit.

Turning to the fourth and final *Randall* "danger sign," the record suggests some cause for potential risk attributable to the County's limit. The limit applies to a 2-year election cycle, which, when allocated across both a primary and general election, effectively halves the contribution allowable per election.

However, the record contains evidence that is a mitigating factor for this "danger sign": any County candidate who receives more than 50% of the vote in the primary election is, thereby, elected to office, and the general election for that office does not occur. The record demonstrates that in both 2018 and 2020, that structure resulted in the races for Multnomah County offices all being decided by the primary election.[10]

In *Randall*, addressing a much lower and state-wide contribution limit from Vermont, the Court found all four of the danger signs to be present and, as such, held the limit warranted the further scrutiny of the "five factors" pertaining to the limit's "tailoring" and "proportionality." *See* 548 U.S. at 249–253.

Here, the court finds the possible existence of only two of the Randall "danger signs," but

both are significantly mitigated in the context of the County's specific non-partisan approach to elections. The court therefore concludes, in consideration of all the relevant and binding legal analyses, that the County's contribution limit does not risk "preventing challengers from mounting effective campaigns against incumbent officeholders, thereby reducing democratic accountability." *Id.* at 249.

In summary, the evidence presented demonstrates with regard to Multnomah County's contribution limit, there is a "sufficiently important interest" underlying its enactment, and also that the limit represents and appropriate means to accomplish that interest, "closely drawn to avoid unnecessary abridgment of associational freedoms." *Buckley*, 424 U.S. at 25 (internal quotation omitted). Full consideration of the *Randall* "danger signs" does not support the conclusion that the County's contribution limit is too low to survive First Amendment scrutiny.

ii. Five *Randall* Factors

Based upon the findings and conclusions set out above, this court can render a judgement on the constitutionality of the County's contribution limit without considering the five factors set out by the *Randall* court to assess the limit's "tailoring, that is, toward assessing the proportionality of the restrictions." *Randall*, 548 U.S. at 249 (internal quotations omitted).

But the court recognizes its analysis of the record has identified two "danger signs" potentially implicated by the County's limit. For that reason, as well as to provide whatever guidance may come to these and other interested parties from completing the constitutional analysis, and finally, to provide the transparency important for judicial decisions regarding the legality of important public policies, the court will make an independent examination of the record and address the five *Randall* factors relating to the requisite tailoring and proportionality of campaign contribution limits.

The Court in *Randall* looked to five different factors which, taken together, led the court to declare Vermont's contribution limits violative of the First Amendment. Those considerations included: (1) whether the contribution limits would significantly restrict the amount of funding available for challengers to run competitive campaigns; (2) whether political parties must abide by exactly the same low contribution limits as other contributors; (3) whether volunteer services are contributions that count toward the limit; (4) whether the contribution limits are adjusted for inflation; and (5) whether any special justification warrants the limit.

Turning to the first factor, in *Buckley v. Valeo*, when addressing a federal $1,000 individual contribution limit, the Supreme Court noted:

> Absent record evidence of invidious discrimination against challengers as a class, a court should generally be hesitant to invalidate legislation which on its face imposes evenhanded restrictions. . . And, to the extent that incumbents generally are more likely than challengers to attract very large contributions, the Act's $1,000 ceiling has the practical effect of benefiting challengers as a class.

424 U.S. 1, 31–32 (1976).

No evidence has been presented here to support a conclusion that the County's contribution limitation will limit a challenger's ability to run an effective campaign against an incumbent. That absence of evidence is especially significant where, as referenced in *Buckley* and as is the case here, the limit imposes an evenhanded restriction that applies "to all candidates regardless of their present occupations, ideological views, or party affiliations." *Id*.

Indeed, the County offers evidence of the contribution limit's evenhandedness in the form of the Declaration of Susheela Jayapal, a Multnomah County Commissioner, in which she describes her experience running in a contested election in 2018 against three other candidates. *See* Decl. Thomas, Ex. 8, at 1–2. She addressed the inexpensive or no-cost ways of effectively communicating with local voters, and concludes, "I know that I could raise the resources

necessary to run a competitive campaign for the Multnomah County Commission while complying with the County's contribution limits." *Id.*

The second *Randall* factor mirrors the third "danger sign" the *Randall* Court warned of, relating to entire political parties being limited by the same contribution limit as individuals. Based on this court's analysis above, this factor weighs in favor of the County's limit being tailored appropriately.

The third *Randall* factor relates to whether "volunteer services" are considered contributions and would, therefore, count toward and be restrained by the County's individual contribution limit.

The *Randall* Court explained its concern underlying this factor thusly:

> That combination, low limits and no exceptions, means that a gubernatorial campaign volunteer who makes four or five round trips driving across the State performing volunteer activities coordinated with the campaign can find that he or she is near, or has surpassed, the contribution limit. So too will a volunteer who offers a campaign the use of her house along with coffee and doughnuts for a few dozen neighbors to meet the candidate, say, two or three times during a campaign. Cf. Vt. Stat. Ann., Tit. 17, § 2809(d) (2002) (excluding expenditures for such activities only up to $100). Such supporters will have to keep careful track of all miles driven, postage supplied (500 stamps equal $200), pencils **2499 and pads used, and so forth. And any carelessness in this respect can prove costly, perhaps generating a headline, "Campaign laws violated," that works serious harm to the candidate.

Randall, 548 U.S. at 260.

Here, the County's "contribution" definition, incorporating by reference Oregon's statutory definition, addresses those precise concerns in two ways. First, Oregon's definition includes only "services other than personal services for which no compensation is asked or given." Second, the definition expressly excludes volunteers' travel costs, the use of their residences, and related food and beverage costs—among other things—and therefore, those are

not counted or restricted by the County's limit. *See* ORS 260.005(3); ORS 260.007.

Regarding the fourth factor, the County's contribution limit is automatically adjusted for inflation in every odd-numbered year. MCC § 5.205. Therefore, the County's limit falls on the constitutional side of the concerns implicated by this factor.

The final *Randall* factor looks at whether there are any special justifications to warrant the contribution limit. The County and Intervenors again point primarily to the record evidence supporting the recognized governmental interest in preventing actual or apparent corruption in Multnomah County: very strong voter support, the Charter Review Committee's reported findings, and the numerous declarations submitted from prior candidates for city, county, and state offices in Oregon, all which attest to the inequitable power of large or unlimited donations in elections.

Additionally, these parties point to two studies which the court gives some consideration and weight to, as they are certainly relevant to this fifth factor, though are not as specifically probative regarding the County's contribution limit.

First, the State Integrity Investigation of the Center for Public Integrity in November 2015 gave Oregon an "F" grade in systems to avoid government corruption, and further ranked Oregon 49th out of 50 states in control of "Political Financing" in order to combat corruption. *See* Lee van der Voo, *Oregon Gets F Grade in 2015 State Integrity Investigation*, The Center for Public Integrity (Nov. 9, 2015), https://publicintegrity.org/politics/state-politics/state-integrity-investigation/oregon-gets-f-grade-in-2015-state-integrity-investigation/#correction.

Second is a 2020 study by the National Institute on Money in State Politics, which found that candidates for the Oregon Legislature and Governor are more dependent upon large contributions than is the case in 46 of the other states. *See* Decl. Meek, Ex. 3, at 1.

In sum, unlike in *Randall*, where the shortcomings regarding all five factors collectively led the Court to conclude that Vermont's contribution limits were not appropriately tailored, nearly all the *Randall* factors weigh in favor of the County limit's appropriate tailoring. The court therefore finds that even if the County's limit was found to be suspect based upon consideration of the *Randall* "danger signs," a follow-on consideration of the *Randall* five factors compels the conclusion the limit is tailored in a way that survives First Amendment scrutiny.

IV. Conclusion

In accordance with the remand order of the Oregon Supreme Court, and having developed a factual record, reviewed the extensive written briefing of the parties and having heard oral argument, and made finding, all with respect to the issue on remand—the constitutionality under the First Amendment to the United States Constitution of the Multnomah County campaign contribution limit established pursuant to MCC §§ 5.200–203—the court hereby concludes the limit is appropriately consistent with the free speech rights guaranteed by First Amendment to the United States Constitution, and that the Multnomah County campaign contribution limit is, therefore, constitutional, lawful and valid.

It is so ordered.

DATED this 23rd day of August, 2021.

Signed: 8/23/2021 04:37 PM

Circuit Court Judge Eric J. Bloch