
The Next “Super PAC”?

All You Ever Wanted to Know about Joint Fundraising Committees
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Panelist Profiles



Kirk Jowers

- Member, Caplin & Drysdale
- Harvard Law School (1995)
- Former Chairman and Counsel, Mitt Romney's Commonwealth PACs
- Director, Hinckley Institute of Politics at the University of Utah




Matthew Sanderson

- Attorney, Caplin & Drysdale
- Vanderbilt University Law School (2008)
- Former Counsel, John McCain and Rick Perry Presidential Campaigns
- Lecturer, University of Virginia School of Law

How Do JFCs Work?

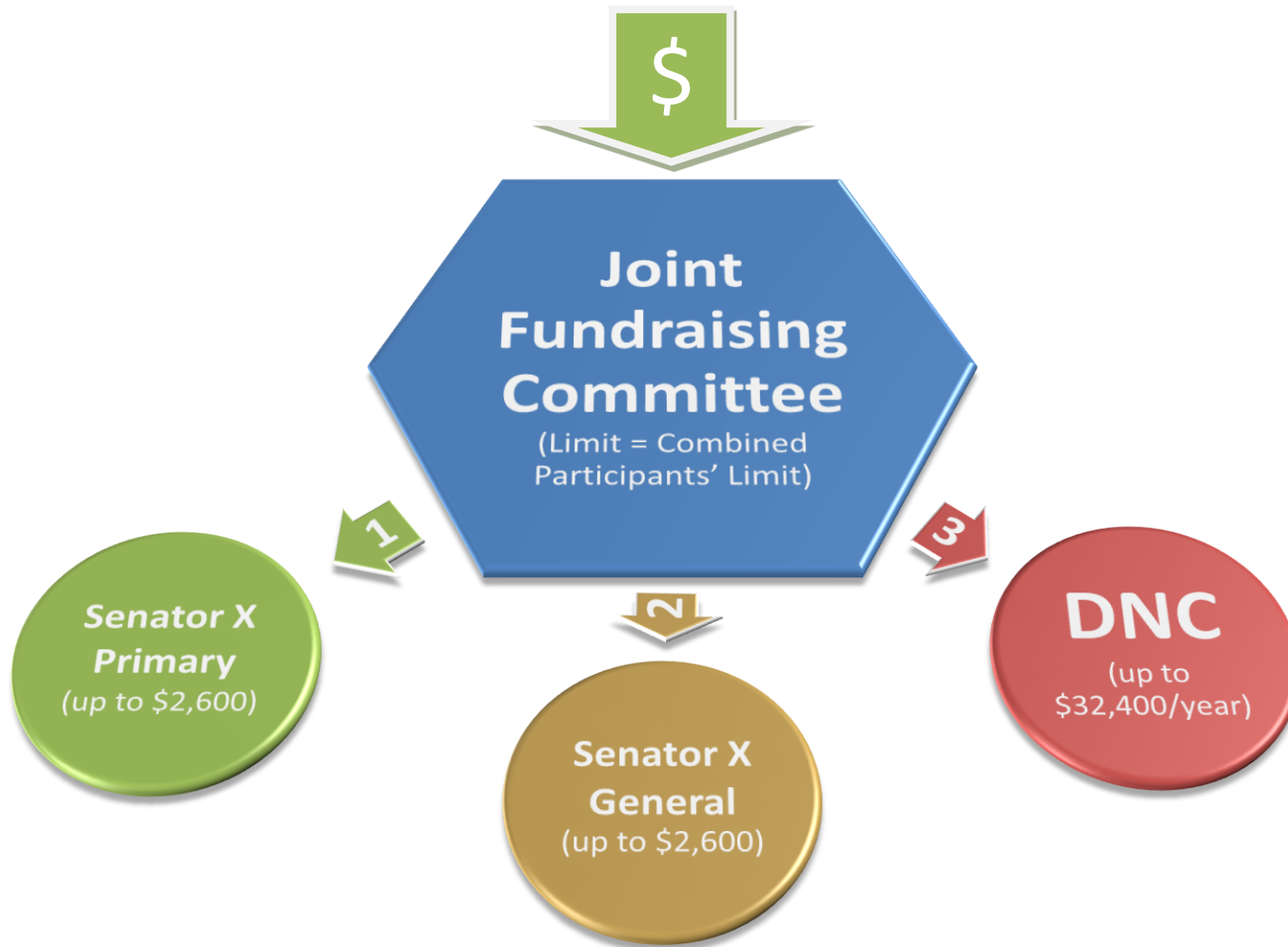
- **What is a JFC?** A joint fundraising committee is a federally registered joint venture between multiple entities for the limited purpose of raising political contributions.
- **How is a JFC Formed?**
 - Must include the name of candidate if one candidate participates
 - Just over half of the JFCs' names include the word "victory"
 - Participating entities form a new committee by executing a joint-fundraising agreement and filing a new Statement of Organization with the Federal Election Commission
 - Agreement sets forth "allocation formula"—Split percentage v. "ice cube tray"

FEC FORM 1	STATEMENT OF ORGANIZATION	 <small>Office Use Only</small>
1. NAME OF COMMITTEE (in full) <input type="checkbox"/> (Check if name is changed) Example: If typing, type over the lines. 12FE4M5		
Kay Hagan North Carolina Victory 2014		

JOINT FUNDRAISING AGREEMENT

This Joint Fundraising Agreement ("Agreement") is made on July 30, 2008 by and between the following organizations:

How Do JFCs Work? (cont.)



How Do JFCs Work? (cont.)

■ What are a JFC's Basic Functions?

- Gather checks from contributors
- Process contributions and pay fundraising costs
 - Allocate gross proceeds according to Agreement's formula for reporting purposes
 - Calculate percentage of total gross receipts that went to each committee
 - Determine total expenses
 - Deduct expenses based on allocated gross receipts allocation
 - Ascertain each participant's "share" of net proceeds based on gross receipts allocation
- Transfer funds to each JFC participant

■ How much may contributors give to a JFC? The limit on contributions to a JFC is simply the *combined* total of limits that apply to each JFC participant.

- Example: JFC of 3 federal PACs (each w/ \$5,000/year limit) could accept up to \$15,000/year/donor

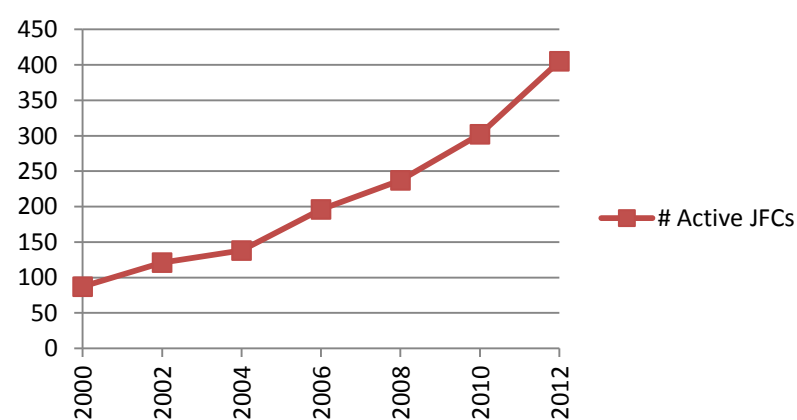
■ What are a JFC's Advantages?

- Simplifies contribution process for donors (i.e. donors write a single check)
- Enables JFC to minimize the number of times it solicits from contributors
- JFC participants may have access to funds that are normally unavailable

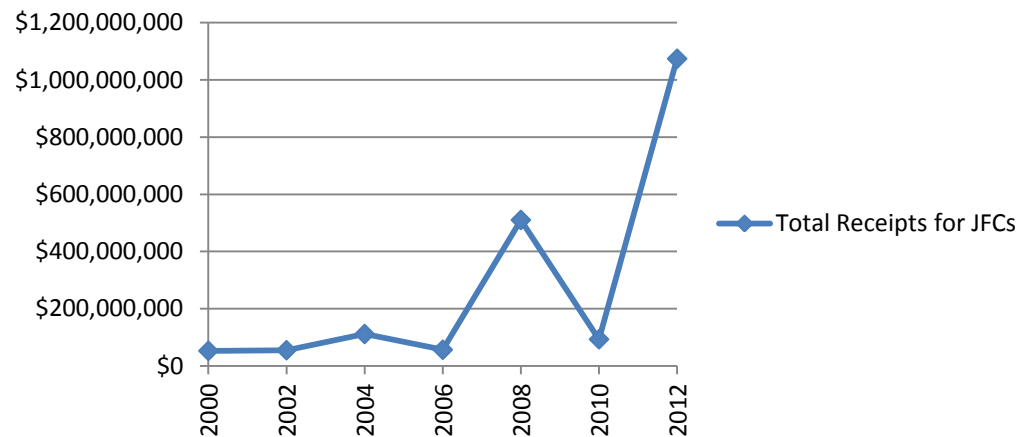
How Have JFCs Been Used Historically?

- **JFCs were initially used as “dinner committees” for multi-candidate events.**
 - The President’s Dinner Committee or the Senate-House Dinner Committee
 - Debt retirement for losing candidates
- **JFC usage increased dramatically between 2000 and 2012.**
 - Active JFCs increased from 87 to 405
 - Total receipts rose from \$52.5M to \$1.073B
 - Example: 1999 State Victory Fund Committee (\$5M) and Obama Victory Fund (\$492M)

of Active JFCs



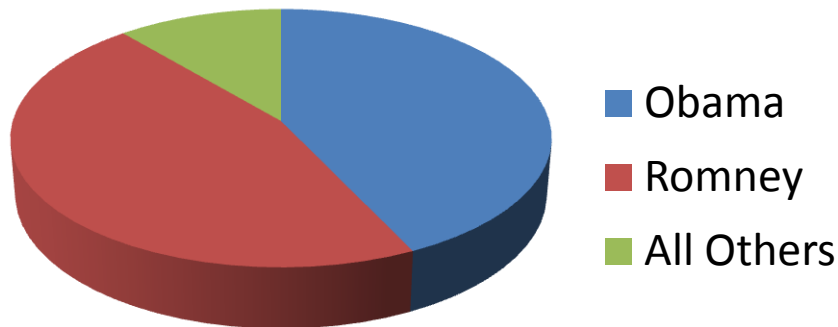
Total Receipts for JFCs



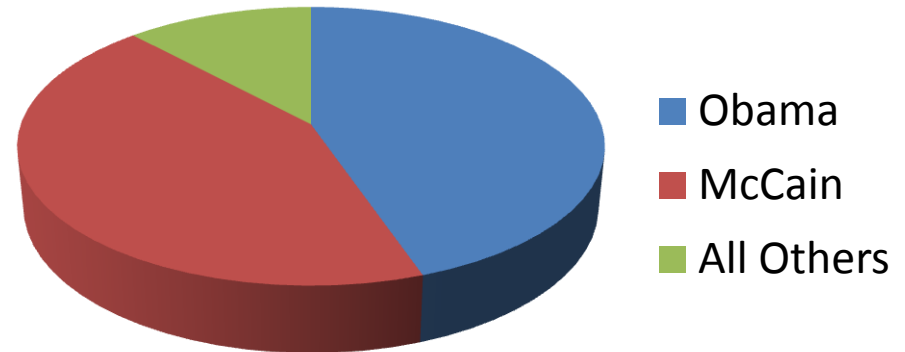
How Have JFCs Been Used Historically? (cont.)

- **JFC growth has been driven by presidential-level fundraising.**
 - 2012
 - Obama: \$460M through two JFCs (Swing State Victory, Obama Victory)
 - Romney: \$492M through one JFC (Romney Victory)
 - 2008
 - Obama: \$227M through three JFCs (Obama Victory Fund, Cmte. for Change, Dem. W.H. Victory)
 - McCain: \$221M through ten JFCs (e.g. McCain-Palin Victory 2008, McCain Victory California)

2012 JFC Receipts



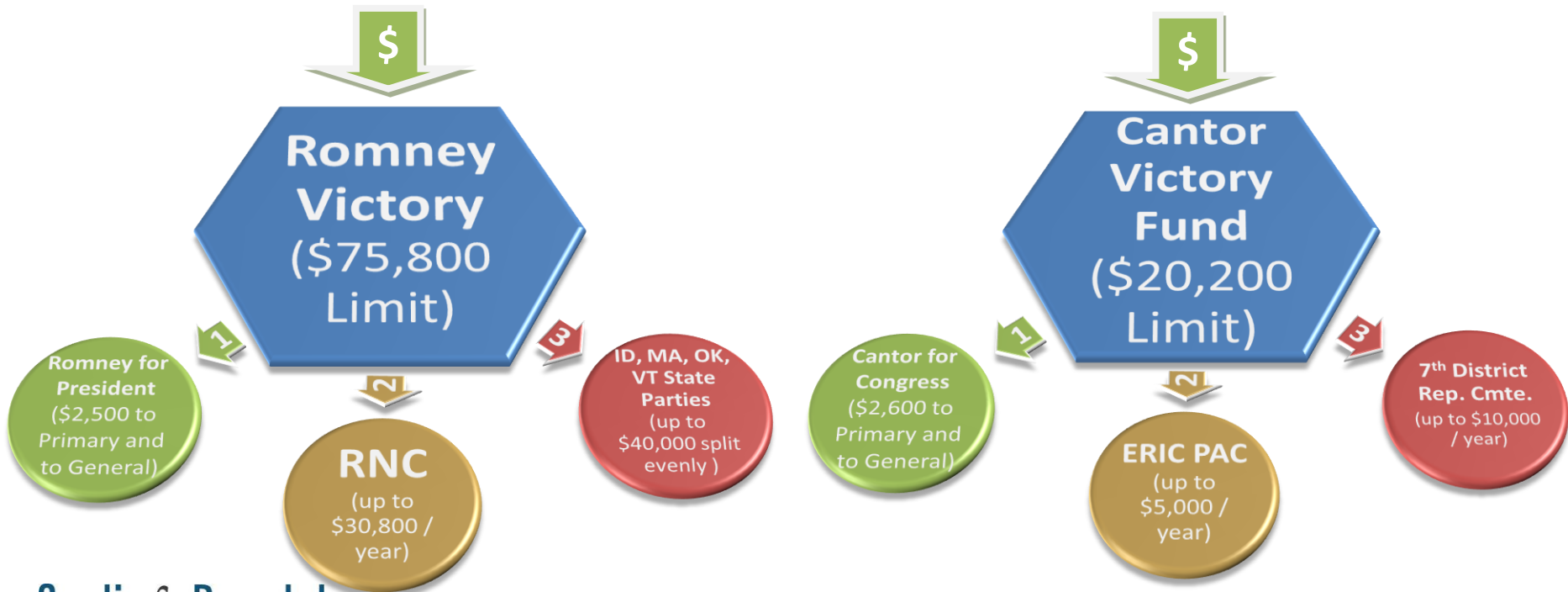
2008 JFC Receipts



How Have JFCs Been Used Historically? (cont.)

- JFCs typically fall into distinct structural categories.

- Multi-Candidate JFCs (e.g., Landrieu-Wyden Victory Fund, Mich. Young Guns Victory Fund)
- Candidate-Party JFCs (e.g., Romney Victory, Franken Recount)
- Candidate-Leadership PAC JFCs (e.g., Cantor Victory, Speaker Nancy Pelosi's Majority Fund)
- Other (e.g., Women 2 Win, Shurtleff Joint Fund)



What Did *McCutcheon* Say About JFCs?

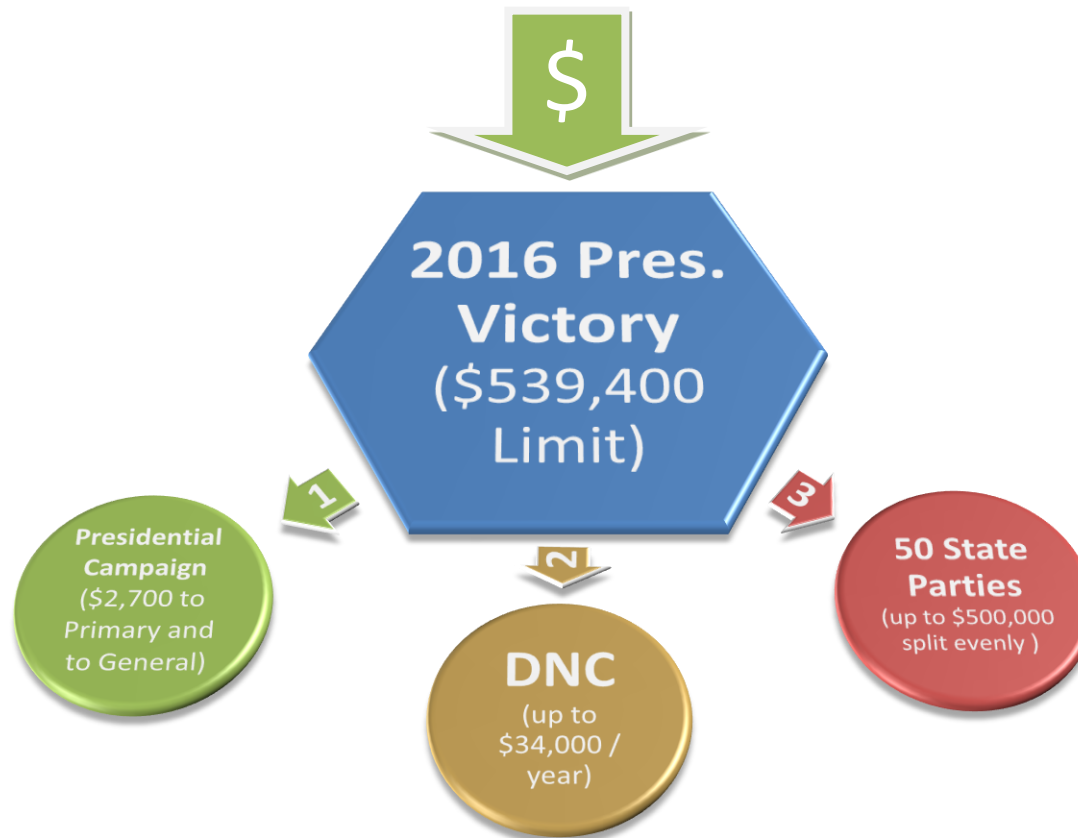
- JFCs featured prominently in the U.S. Supreme Court's recent *McCutcheon* case.
 - *McCutcheon* struck down biennial aggregate limitations on the *total* amount an individual could give to *all* federal candidates, political parties and PACs combined
 - JFCs were prominent in lower court proceedings, SCOTUS oral argument and opinion

Individuals' Contribution Limits for 2013-2014



How Did *McCutcheon* Directly Affect JFCs?

- By eliminating aggregate limits, *McCutcheon* removed the primary legal impediment to larger JFCs, particularly at the presidential level.



What Will Happen to JFCs Post-*McCutcheon*?

- **JFCs receipts should significantly grow after the recent decision in *McCutcheon*.**
 - JFC use rising anyway in the post-*Citizens United* era as way to combat “soft money”
 - *McCutcheon* eliminated the primary administrative burden large-dollar donors once had
 - *Citizens United*-type effect may occur
- **Certain factors will likely cause growth of JFCs to trend below highest predictions.**
 - “Super PACs” remain the most efficient means for wealthy to support a single candidate
 - Difficult to reassemble JFC funds once they are distributed to participants
 - Federal Election Commission may enforce anti-earmarking provision
 - Administrative complexity (minor)
- **Many issues with JFCs will likely receive more publicity as their use increases.**
 - Transparency
 - JFC spending on non-fundraising expenses as way to circumvent party coordinated limits
 - Donor confusion
 - “Soft money” solicitations by federal officeholders?

Questions and Contact Information

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