SUPREME COURT OF LOUISIANA

No. 99-CA-2337

CLAUDE M. PENN, JR., GLADNEY L. MANUEL, JR., FELICIANA VENTURES, INC., AND MANUEL'S I-10 AUTO & TRUCK STOP, INC.

VERSUS

STATE OF LOUISIANA, THROUGH THE HONORABLE MURPHY J. FOSTER, JR., GOVERNOR, THE HONORABLE RICHARD P. IEYOUB, ATTORNEY GENERAL, THE SUPERVISORY COMMITTEE ON CAMPAIGN FINANCE DISCLOSURE AND THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS, LOUISIANA GAMING CONTROL BOARD

CALOGERO, C.J., concurring

The provisions at issue in this case,[1] La. R.S. 18:1505.2(L)(3)(a)(i), La. R.S. 18:1505.2(L)(3)(b)(i), and Rule 107 of Title 42 of the Louisiana Administrative Code ("the Louisiana statutes"), prohibit some, but not all, persons associated with the video draw poker industry, from making a contribution, loan, or transfer of funds to any candidate for state or local public office.[2] The prohibition applies whether

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[1] Other sections of La. R.S. 18:1505.2(L) also contain provisions which prohibit various persons associated with the gaming industry from contributing to candidates for elective office. Those other sections are not under attack in this lawsuit. Therefore, I express no opinion as to their validity.

[2] Section 1502.2(L)(3)(a)(i)'s prohibition applies to any person licensed under the Video Draw Poker Devices Control Law, La. R.S. 27:301, *et seq.,* as a distributor, manufacturer, or service entity of gaming devices. Further, when any truck stop, pari-mutuel or off-track wagering facility is licensed for video draw poker devices, its owners are included in the prohibition. *See* La. R.S. 18:1502.2(L)(3)(a)(i).

However, various other persons associated with the video draw poker industry are exempted from the prohibition. For instance, those who actually own the video draw poker devices are exempted, as well as owners of bars, lounges, hotels, motels, and restaurants licensed for video draw poker.

The prohibitions established in section 1502.2(L)(3)(a)(i) are broadened by section 1502.2(L)(3)(b)(i), which makes the prohibition applicable to any person who has an "interest," directly or indirectly, in any legal entity prohibited from contributing under section 1502.2(L)(3)(a)(i). *See* La. R.S. 18:1502.2(L)(3)(b)(i). Persons with an "interest" in one of the affected legal entities include individuals, as well as their spouses, who have greater than a ten percent ownership interest in the entity. *See id.*

the contribution, loan, or transfer of funds is given directly to the candidate, to any political committee of the candidate, or to any committee supporting or opposing a specific candidate. *See* La. R.S. 18:1502.2(L)(2). Further, the term "candidate" is broadly defined to include any person seeking nomination or election to public office, with the exception of several enumerated federal offices. *See* La. R.S. 18:1483(3)(a). In sum, those video draw poker licensees affected by the Louisiana statutes cannot contribute to any candidate in any state or local election.[3] *See id.*

All parties to this suit agree that legislation, such as the Louisiana statutes, which sets limits on the amount of money that an individual can contribute to a candidate, operates in an area subject to First Amendment protection. The State, however, argues that the Louisiana statutes are constitutional, *i.e.*, not in violation of the First Amendment, because in *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612 (1976) (per curiam), the United States Supreme Court upheld limits on contributions to candidates. According to the State, *Buckley* holds that "limiting the actuality and appearance of corruption is a sufficiently important governmental purpose to justify limitations on contributions." Thus, because the public associates gambling and gaming with corruption, say the defendants, the Louisiana statutes are a permissible infringement on First Amendment rights under *Buckley*.

After a review of the *Buckley* decision as well as the applicable campaign finance jurisprudence, I conclude that the prohibition on contributions in the Louisiana statutes exceeds the permissible infringement on First Amendment rights recognized by the Court in *Buckley*. Consequently, the Louisiana statutes are

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[3] As discussed in note 2, *supra*, not all members of the video draw poker industry are covered by the prohibition. Thus, in addition to their First Amendment challenge, Appellees also argue that the Louisiana statutes violate the equal protection clauses of the United States and Louisiana Constitutions. The district court, however, held the Louisiana statutes unconstitutional under the First and Fourteenth Amendments to the United States Constitution.

unconstitutional because they violate the First and Fourteenth Amendments of the United States Constitution.[4]

In *Buckley*, the United States Supreme Court held that campaign contributions are a type of political expression entitled to First Amendment protection. *Buckley*, 424 U.S. at 14, 96 S. Ct. at 632. Nevertheless, the *Buckley* Court upheld federal legislation that set ceiling limits on the amount of money that any one individual could contribute to a specific candidate for certain federal offices. *Id.* at 29, 96 S. Ct. at 640. In upholding the contribution limits at issue in *Buckley*, the Court identified a single "compelling governmental interest" sufficient to outweigh the burden on First Amendment rights caused by contribution limits: curtailing the actual or perceived corruption of our electoral process that can result when an individual contributor gives a large sum of money to a specific candidate. *Id.* at 26-27, 96 S. Ct. at 638. The crux of the Court's reasoning in upholding the limits was the potentially coercive influence that large financial contributions can have on the candidate's actions if elected to office. The Court characterized this as "quid pro quo arrangements" and concluded that this specific type of corruption, *i.e.*, the "purchasing of a candidate" by way of a large contribution, was so potentially injurious to our "representative democracy" as to justify the contribution limits at issue. *Id.*[5]

To date, the Court has not expanded the scope of the permissible

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[4] The First Amendment to the United States Constitution states in part that "Congress shall make no law . . . abridging the freedom of speech." U.S. Const. amend. I. The First Amendment applies to the States under the Due Process Clause of the Fourteenth Amendment. *44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 489, 116 S. Ct. 1495, 1501 n.1 (1996).

[5] For example, during the 1972 presidential campaign, over $3 million dollars in presidential campaign contributions were attributable to six large contributors who were actively seeking appointments to ambassadorships. *Buckley v. Valeo*, 519 F.2d 821, 840 n.38 (D.C. Cir. 1975), *aff'd in part and rev'd in part*, 424 U.S. 1, 96 S. Ct. 612 (1976). Further, campaign fund-raisers routinely advised potential contributors that "only the President could guarantee nomination" to such a position. *Id.*

infringement on First Amendment rights that it created in *Buckley* when it upheld the contribution limits at issue in that case. To the contrary, in the campaign finance cases that follow *Buckley*, the Court has made clear that *Buckley* was a very "narrow exception" justified only by the quid pro quo/large contribution type of corruption discussed above. *See Citizens Against Rent Control v. Berkeley*, 454 U.S. 290, 296, 102 S. Ct. 434, 437 (1981) ("*Buckley* identified a single narrow exception to the rule that limits on political activity were contrary to the First Amendment."); *Colorado Republican Campaign Comm. v. Federal Election Comm'n*, 518 U.S. 604, 640, 116 S. Ct. 2309, 2328 (1996) (Thomas, J., concurring in judgment and dissenting in part) (stating that *Buckley*'s analysis was "deeply flawed" and campaign contributions should receive full First Amendment protection); *California Med. Ass'n v. Federal Election Comm'n*, 453 U.S. 182, 202, 101 S. Ct. 2712, 2725 (1981) (Blackmun, J., concurring in part and concurring in the judgment) ("[It is] a mistaken view that contributions are 'not the sort of political advocacy . . . entitled to full First Amendment protection.'"). In sum, campaign contribution limits aimed at defeating corruption, as the Louisiana statutes purport to do, must fit within the exception created by *Buckley* in order to pass constitutional muster. The exception created by *Buckley* permits the State to set reasonable limits, applicable to all persons, on campaign contributions, for the sole purpose of reducing the corruption that may result when contributors give large financial contributions in exchange for political favors, *i.e.*, political quid pro quo arrangements. Otherwise, according to *Buckley* and its progeny, campaign contributions are a type of political expression protected by the First Amendment.

Turning now to the Louisiana statutes at issue in this case, it is clear that they do not fit within the "narrow exception" recognized in *Buckley*. First of all, the

Louisiana statutes impose a complete prohibition on contributions which prevents the affected parties from giving any financial support directly to a candidate. *Buckley*, on the other hand, upheld setting reasonable limits on contributions in order to prevent any one individual from giving too large a contribution. Although the permissibility of a prohibition, rather than a limit, was not before the *Buckley* Court, the reasoning employed by the Court in upholding contribution limits makes clear that a complete prohibition cannot be acceptable. Specifically, the Court reasoned that it was the symbolic act of contributing to a candidate that constituted political expression, and that the expression encompassed in the act of contributing was unrelated to the size of the contribution. *Buckley,* 424 U.S. at 21, 96 S. Ct. at 635-36. Thus, because the size was not as important as the act of contributing itself, a legislatively imposed limit on size was merely a "marginal restriction" on First Amendment rights that was outweighed by the government's interest in preventing political quid pro quo corruption. *See id.* at 20, 96 S. Ct. at 635.

A prohibition on contributions, however, does not mesh with this reasoning because the contributor can no longer engage in the symbolic act of making a financial contribution. Unlike a limit which only restricts the size of the contribution but leaves the act of contributing unaffected, a prohibition cuts off all expression associated with making a contribution to a candidate. Therefore, a complete prohibition cannot be characterized as a "marginal restriction" under the *Buckley* Court's reasoning.[6]

Second, the Louisiana statutes were not enacted to serve the sole "compelling

[6] As the State points out in its brief to this Court, legislation imposing prohibitions on political activity by government employees has been upheld. *See, e.g., United States Civil Serv. Comm'n v. National Ass'n of Letter Carriers,* 413 U.S. 548, 93 S. Ct. 2880 (1973); *Ricks v. Department of State Civ. Serv.,* 8 So. 2d 49, 59 (La. 1942). However, the government's ability to impose non-discriminatory restrictions on the political activities of its own employees differs significantly from its ability to impose like restrictions on private citizens. *Letter Carriers,* 413 U.S. at 564, 93 S. Ct. at 2890 (citing *Pickering v. Board of Educ.,* 391 U.S. 563, 568 (1968)).

interest" recognized in *Buckley*: preventing corruption of the electoral process by political quid pro quo arrangements with large contributors. Rather, the Louisiana statutes were enacted to prevent a group, which the public historically has associated with corruption, from exerting influence in any state or local election by way of a contribution to a candidate.[7] The State asserts that the public perceives that the electoral process is corrupted when groups that it associates with corruption contribute to candidates running for elected positions.

Once again, without conceding the validity of this reasoning, the effect on the electoral process caused by one group that the public perceives as "corrupt" is not the type of corruption that *Buckley* recognized as a governmental interest sufficient to justify contribution limits. Nothing in *Buckley*, or any of the cases that followed, suggests that the State can target unpopular groups in order to suppress their political expression. Again, *Buckley* defined "corruption" very narrowly to be political quid pro quo arrangements which might arise from large contributions, and nothing more. Nothing in the later cases suggests a broader meaning. In short, it is not enough to say that *Buckley* allows the State to set limits in order to prevent corruption, unless one clarifies that the corruption at issue is from quid pro quo arrangements resulting from large contributions. That is simply not what the Louisiana statutes purport to do.

Moreover, the Louisiana statutes cannot, as a practical matter, serve the

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[7] Part (L) of La. R.S. 18:1505.2 addresses campaign finance regulation specific to the gaming industry. The section begins with the following statement of legislative purpose:

> The legislature recognizes that it is essential to the operation of effective democratic government in this state that citizens have confidence in the electoral process and that elections be conducted so as to prevent influence and the appearance of influence of candidates for public office and of the election process by special interests, particularly by those persons substantially interested in the gaming industry in this state.

La. R.S. 18:1505.2(L)(1) (emphasis added).

"compelling interest" of preventing corruption from large contributions because Louisiana already has in place general campaign finance laws that limit the amount of money that any video draw poker licensee, or any other person for that matter, can contribute to a candidate. *See* La. R.S. 18:1505.2(H).[8] Because of the limits set in La. R.S. 18:1505.2(H), the large contributions which were key to the *Buckley* decision are not present in this case. Video draw poker licensees covered by the prohibitions at issue here, as well as other members of the gaming industry, can contribute no more to a candidate than any other citizen. Thus, the State's interest in preventing the single type of political corruption that *Buckley* identified as an interest sufficient to outweigh First Amendment rights, *i.e.*, political quid pro quo arrangements resulting from large contributions, is not present in this case.

The State asserts, however, that the large revenues collected as a whole by the gaming industry would allow its members to disproportionately affect the political process if they are allowed to contribute to candidates. However, while *Buckley* permits the State to alleviate undue influence on candidates by virtue of individual large contributions, it does not allow the State to set limits, or, even more so, prohibitions, in order to prevent the influence that any one group could potentially assert by collectively contributing to a candidate. *See First Nat'l Bank v. Bellotti*, 435 U.S. 765, 790, 98 S. Ct. 1407, 1423 (1978) ("[T]he fact that advocacy may persuade the electorate is hardly a reason to suppress it."); *Buckley*, 424 U.S. at 48-49, 96 S. Ct. at 649. In short, while the First Amendment does not protect the contributor's right to give a candidate a contribution of unlimited size, it does

[8] For instance, individuals wishing to contribute to candidates for the State House or Senate, are limited to a $2,500 dollar contribution. La. R.S. 18:1505.2(H)(1)(a)(ii); La. R.S. 18:1483(7). On the other hand, individuals who contribute to candidates for "major" elective offices, such as governor or attorney general, can give no more than $5,000 dollars. La. R.S. 18:1505.2(H)(1)(a)(i); La. R.S. 18:1483(11).

protect the right of the individual to contribute to the candidate of his choice without regard to whether he is one of many persons whose interests are the same as his own.

Another difference between the Louisiana statutes and the ones upheld in *Buckley* is that the *Buckley* statutes were applicable to the entire citizenry. That is, all potential campaign contributors were subject to the limits upheld in *Buckley*, and no one group or industry was singled out.[9]

The Louisiana statutes at issue in this case, on the other hand, do not apply to all potential contributors to candidates for elective office. Rather, they target a specific group of allegedly unpopular individuals among our citizenry. The undisputed purpose of the Louisiana statutes is to suppress the potential political influence specific to that one group. *See* La. R.S. 18:1505.2(L)(1). However, the idea that the government can identify unpopular groups and pass legislation aimed at suppressing their political influence is one foreign to the First Amendment of our Constitution. *44 Liquormart,* 517 U.S. at 501, 116 S. Ct. at 1507 (recognizing the dangers associated with governmental attempts to single out certain messages for suppression); *see Police Dep't of Chicago v. Mosley,* 408 U.S. 92, 95-96, 92 S. Ct. 2286, 2290 (1972) ("[A]bove all, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content . . . ."). Therefore, because the Louisiana statutes single out one group for different treatment under the First Amendment, they are fundamentally different in nature from those upheld by the *Buckley* Court.

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[9] As previously stated, the contribution limits upheld in *Buckley* applied "broadly to all phases of and all participants in the electoral process." *Buckley,* 424 U.S. at 12-13, 96 S. Ct. at 631. No one group or industry was targeted, notwithstanding that Congress enacted the statutes at issue in response to egregious examples of quid pro quo abuse committed by specific industries during the 1972 election campaigns. *See Buckley*, 519 F.2d at 839-40 nn.36-38 (citing examples from the dairy, dental, oil, and airline industries).

However, the State, as well as the dissenting justices of this Court, argue that the gaming industry is unique because of its long history of opprobrium in this State, and the public's long-held perception that gambling is associated with corruption. They also cite two state court cases, *Petition of Soto v. State*, 565 A.2d 1088 (N.J. Super. Ct. App. Div.1989), and *Schiller Park Colonial Inn, Inc. v. Berz*, 349 N.E.2d 61 (Ill. 1976), because those cases relied on *Buckley* to uphold prohibitions on members of so-called "vice" industries that those courts recognized as unique.[10]

After a careful review of the *Soto* and *Schiller Park* cases, I find them unpersuasive for two reasons. First, even though both cases relied on *Buckley* to uphold prohibitions on contributions instead of limits, neither court adequately explained how a prohibition could be acceptable under *Buckley*'s reasoning. For example, when the *Schiller Park* court addressed the permissibility of a complete prohibition, it simply quoted the portion of the *Buckley* opinion that addressed why a limitation was a "marginal restriction." *Schiller Park*, 349 N.E.2d at 66 (quoting *Buckley*, 424 U.S. at 20-21, 96 S. Ct. at 635). It then concluded that a prohibition was acceptable because the Illinois legislature could have reasonably believed that a limitation would not have been as effective as a complete prohibition. *Id.* Therefore, while the *Schiller Park* court faced issues very similar to the ones raised

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[10] In *Soto*, a New Jersey appellate court upheld an employee regulation which prohibited any casino officer or key employee from contributing to candidates for public office. Plaintiff alleged that the regulation impermissibly infringed on her First Amendment rights of free speech and association. The *Soto* court, however, found that "crime and corruption are inherent in the casino industry and that casino gambling is unique." *Soto,* 565 A.2d at 1104. Further, a state report to the legislature had concluded that "contributions by casino licensees . . . give the appearance of attempting to 'buy' political influence and favoritism and in fact have the very real potential for causing such favoritism to occur." *Id.* at 1096. The court concluded that this fear of corruption was the same fear of corruption of the political process relied upon by the *Buckley* Court. *Id.* at 1097.

Schiller Park dealt with prohibitions imposed on liquor licensees. The court began its analysis by noting that "the nature of the liquor industry [was] a prime consideration in judging the validity of [the statute at issue]." *Schiller Park*, 349 N.E.2d at 65. Further, "the business of selling intoxicating liquor is 'attended with danger to the community' and is 'closely related to certain evils in society.'" *Id.* Like the *Soto* court, the court in *Schiller Park* concluded that these societal concerns were state interests sufficient to uphold the prohibitions in that case. *Id.* at 66.

in this case, the reasoning employed by that court in upholding the prohibitions at issue is not very helpful.[11]

As for the *Soto* case, that court relied on *Schiller Park*'s questionable application of *Buckley* to uphold the prohibitions in that case. *Soto* quoted extensively from *Schiller Park* before following *Schiller Park*'s example and giving deference to its own legislature's determination that a prohibition was a necessary measure. *Soto*, 565 A.2d at 1098-99. Simply said, neither *Soto* nor *Schiller Park* is very useful in explaining one of the key differences between the *Buckley* statutes and the Louisiana statutes, *i.e.*, the permissibility of a complete prohibition on contributions as opposed to a limitation. While cases from other courts are useful in determining similar issues faced by this Court, those cases are only persuasive to the extent that they are backed by solid reasoning consistent with binding constitutional authority such as the United States Supreme Court's decision in *Buckley*.

Second, and most significantly, the United States Supreme Court's recent decision in *44 Liquormart* casts more doubt on the reasoning employed by the *Soto* and *Schiller Park* courts. Both of the latter courts looked to the nature of the industries involved when concluding that the government's asserted interest was sufficient to outweigh the infringement on First Amendment rights caused by the prohibitions at issue in those cases. *See Schiller Park*, 349 N.E.2d at 65 (stating that the business of selling liquor was "related to certain evils in society"); *Soto*, 565 A.2d at 1104 (stating that crime and corruption are inherent in the casino industry). However, in *44 Liquormart*, the Court unequivocally rejected the proposition that

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[11] It is also important to note that *Schiller Park* was decided only four months after the Supreme Court handed down *Buckley*. Thus, the *Schiller Park* court could easily have interpreted *Buckley* as a bellwether for the Court's willingness to allow the government increasing regulatory authority in the area of campaign contribution limits. To the contrary, the Court made clear in subsequent cases that *Buckley* created a "narrow exception." *Citizens Against Rent Control*, 454 U.S. at 296, 102 S. Ct. at 437.

certain products, activities, or industries are entitled to less protection under the First Amendment because of their history as "vice" activities. *See 44 Liquormart*, 517 U.S. at 513-14, 116 U.S. at 1513 (rejecting the state's argument that commercial speech protected under the First Amendment is subject to a "vice" exception). The Court recognized the danger inherent in giving legislatures the discretion to categorize certain activities as "vices" for the purpose of suppressing expression. *Id.* ("Almost any product that poses some threat to public health or public morals might reasonably be characterized by a state legislature as relating to 'vice activity.'").

Furthermore, the Court's refusal in *44 Liquormart* to create a "vice" exception to the First Amendment is especially significant because the restriction at issue in that case operated in the area of commercial speech, an area entitled to <u>less</u> protection under the First Amendment than other forms of speech. Surely, if the Court would not recognize a "vice" exception in the lesser protected area of commercial speech, then a "vice" exception <u>cannot</u> be acceptable for campaign contribution regulations which the Court has held "operate in an area of the most fundamental First Amendment activities." *Buckley*, 424 U.S. at 14, 96 S. Ct. at 632. Simply said, in the wake of *44 Liquormart*, the arguments of the State and dissenting justices of this Court, which cite gambling's history of perceived corruption as justification for the Louisiana statutes, are questionable.

However, my dissenting colleagues make an argument under our State Constitution which at first glance seems, potentially at least, to aid the defendants. They point out that, under the Louisiana Constitution, the legislature is charged with defining and suppressing gambling, and that the prohibition on campaign contributions in the Louisiana statutes is merely one of the means employed by our

legislature while acting pursuant to its constitutional duty to suppress gambling. One of the dissents also cites various cases from this Court which have recognized the legislature's broad powers in the area of gambling regulation. *See, e.g., Polk v. Edwards,* 626 So. 2d 1128 (La. 1993); *Theriot v. Terrebonne Parish Police Jury,* 435 So. 2d 515 (La. 1983); *State v. Mustachia,* 152 La. 821, 94 So. 408 (1922); *Ruston v. Perkins,* 114 La. 851, 38 So. 583 (1905).

Of course, the State Constitution, as did the jurisprudence under the 1921 State Constitution, gives the legislature the responsibility to suppress gambling. La. Const. art. 12, § 6(B). The *Polk* case followed *Gandolfo v. Louisiana State Racing Commission,* 227 La. 45, 78 So. 2d 504 (1954), and the constitutional effort in 1974, to leave unchanged this Court's jurisprudence in that area. In fact, the 1974 Constitution made it even more clear that the legislature had the power to define, and as so defined, to suppress gambling. However, even if we assume that the legislature has chosen these Louisiana statutes as a means of suppressing gambling, it does not necessarily follow that the statutes under attack in this litigation are valid. The legislature, having chosen to ban political contributions by some members of the gaming industry, cannot run afoul of the United States Constitution. That is, no provision of our State Constitution can authorize the legislature to violate the First Amendment, which as part of the United States Constitution, is the supreme law of the land. U.S. Const. art. VI, § 2. Thus, the fact that our State Constitution directs the legislature to suppress gambling means nothing to the validity of the Louisiana statutes if the means chosen by the legislature violate the First Amendment. *See Citizens Against Rent Control*, 454 U.S. at 295, 102 S. Ct. at 437 ("It is irrelevant that the voters rather than a legislative body enacted [the statute], because the voters may no more violate the Constitution by enacting a ballot measure than a legislative

body may do so by enacting legislation.").

Furthermore, because the Louisiana statutes apply only to a targeted group of individuals, the State's argument that *Buckley* dictates that the Louisiana statutes should be subject to a more deferential standard of review than strict scrutiny is unpersuasive. As the State pointed out in its brief to this Court, the *Buckley* Court stated that the government could justify "even a significant interference" with protected First Amendment rights, by demonstrating a "sufficiently important interest," and by employing means "closely drawn" to avoid unnecessary infringement on protected rights. *Buckley,* 424 U.S. at 25, 96 S. Ct. at 638. Nevertheless, the Court also stated that the provisions at issue in that case were subject to "the closest scrutiny." *Id.*, 96 S. Ct. at 637. Assuming *arguendo* that the *Buckley* Court did not apply strict scrutiny,[12] it does not follow that every type of contribution regulation is entitled to something less than strict scrutiny. *See 44 Liquormart*, 517 U.S. at 501, 116 S. Ct. at 1507 (recognizing that restrictions of similar categories of expression are not necessarily subject to a similar form of review). As discussed above, the Louisiana prohibitions differ significantly from the *Buckley* limits in ways which make them more burdensome on protected First Amendment rights. Given, however, that video draw poker is a legal business activity in our state, and that much of the gaming industry, and some facets of the video draw poker industry, are exempted from the prohibitions at issue, it is unlikely that the State could carry its burden even under a standard of review less rigorous

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[12] As one commentator has stated, the level of scrutiny employed by the *Buckley* Court is difficult to ascertain due to the Court's inconsistent phraseology. James Bopp, Jr., *Constitutional Limits on Campaign Contribution Limits,* 11 Regent U.L. Rev. 235, 240 (1999). Later in the per curiam opinion, after using the language discussed above, the Court characterized its analysis as "the rigorous standard of review established by [its] prior decisions." *Buckley,* 424 U.S. at 29, 96 S. Ct. at 640.

Other courts have, however, interpreted the *Buckley* decision as requiring strict scrutiny analysis. *See, e.g., Carver v. Nixon,* 72 F.3d 633, 637 (8th Cir. 1995), *cert. denied,* 518 U.S. 1033 (1996).

than strict scrutiny. *See Greater New Orleans Broadcasting Ass'n, Inc. v. United States,* __ U.S. __, 119 S. Ct. 1923 (1999).[13] Thus, it is unnecessary to grapple with the matter of the level of scrutiny appropriate to this case.

In sum, the State may set reasonable limits, applicable to all persons, on campaign contributions, for the sole purpose of reducing the corruption that results when contributors give large financial contributions in exchange for political favors, *i.e*., political quid pro quo. Otherwise, according to *Buckley*, campaign contributions are a type of political expression protected by the First Amendment. Because the Louisiana statutes at issue in this case impose a complete prohibition, against targeted individuals, for a purpose other than alleviating corruption from large contributions, they go beyond what *Buckley* upheld. Therefore, I conclude that the Louisiana statutes impermissibly burden the First Amendment rights of those affected by the statutes, and are therefore unconstitutional.

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[13] In *Greater New Orleans Broadcasting Ass'n, Inc. v. United States*, 119 S. Ct. 1923, 1926 (1999), the Court addressed the validity of federal statutes that prohibited, some but not all, broadcast advertising of lotteries and casino gambling. Because the statutes affected commercial speech, the Court did not apply strict scrutiny, but instead used the four-part *Central Hudson* test which does not require the State to demonstrate a compelling state interest. *See id.* at 1930. Instead, the State must show that: (1) the speech concerns a lawful activity and is not misleading, (2) the asserted governmental interest is substantial, (3) the regulation directly advances the governmental interest asserted, and (4) the regulation is not more extensive than necessary to serve that interest. *Greater New Orleans Broadcasting*, 119 S. Ct. at 1930 (quoting *Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n*, 447 U.S. 557, 566 (1980)).

The government argued that the federal statutes were necessary to reduce the societal ills associated with gambling. However, the Court held that the government could not meet it burden under parts (2) and (3) of the *Central Hudson* test because the statutes at issue were "so pierced by exemptions and inconsistencies" that the government could not meet its burden. *Id.* at 1933. Further, because Congress had, in other legislation, sanctioned and approved of gambling, the federal policy disfavoring gambling had become equivocal. *Id.* at 1932.