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## Dikeman's FEC Case: Slightly Anti-Libertarian?

BY WES DODSON on OCTOBER 30, 2018 • ( 0 )

On October 15, 2018, [Neal Dikeman's](#) campaign filed the largest ever campaign finance violation complaint against CNN and the O'Rourke campaign. In a [press release](#), Dikeman, who is the Libertarian Party nominee for Senate, asserts that because Ted Cruz is no longer participating in the CNN town hall on October 18 that was previously slated to feature both Cruz and O'Rourke, the town hall no longer qualifies as a debate. Additionally, he states that any promotion of the event, now featuring only O'Rourke, should be treated as an in-kind contribution to the O'Rourke campaign. Dikeman claims that as a corporation, CNN is prohibited from making any kind of donation under FEC regulations, which is true. However, the underlying FEC regulation that forms the basis of Dikeman's case against O'Rourke and CNN runs against libertarian values.

Dikeman's claim that CNN's promotion of a town hall with a single individual is an in-kind political contribution is itself dubious. American media companies like CNN are not public utilities duty-bound to produce only news and are not subject to equal coverage regulations for their political content. However, for the sake of this discussion, I will first assume that Dikeman's point has merit and then address that assumption later in the piece.

The case can really be addressed in three questions: Is political money political speech? Should corporations be able to spend money on political speech? Should corporations be able to spend money on political speech *in support of a specific candidate*? The libertarian answers to those questions are yes, yes, and yes; the Dikeman campaign's answers seem to be maybe, maybe, and no.

To answer the first question, let's put aside the question of corporations and just stipulate that a very wealthy individual — and I mean *very wealthy* — wants to spend \$100 million on advertising in support of a candidate. In a statewide race like the Senate, that could be a game changer.

Under a traditional libertarian worldview, money that is spent for the express purpose of generating speech, is itself a speech act. Were it to be considered otherwise, a court could assert to our wealthy individual that they have the right to make statements in support of their candidate, but they cannot, however, spend any money to promulgate those statements. In no libertarian world would this standard be acceptable. Your free speech rights include the right to promulgate your speech, regardless of how much money you spend doing it.

So why then did I rate Dikeman's campaign a maybe on the answer to this question? Dikeman, both in his [podcast conversation](#) with me and in his press release, states that "politics *should* not be about money," not "politics *can't* be about money." You could make the normative statement that wealthy individuals spending gobs of money on political speech in support of one candidate is bad for democracy, without saying that those individuals shouldn't have the right to spend that money.



Academic – ish.

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Okay, so we have established that libertarians believe that for individuals, money spent to produce and promulgate speech is tantamount to speech itself. But should *corporations* be able to spend money on political speech the same way that individuals do?

Well, there are obvious instances of political speech that are germane to a corporation's financial interests. A petrochemical corporation will likely be financially affected by EPA policy and should be able to spend money on advertisements that state their argument for or against those policies. Under current law, corporations can spend money on political speech [attacking specific issue positions](#). A corporation that produces solar panels just might have something to say about President Trump's energy policy.

And yet I say that Dikeman's answer to this question is *maybe*. Again, I am taking a textualist approach to his answer (wow, a libertarian writer takes a textualist approach. Shocker). Dikeman says in the press release that "corporations should not be funding *politicians*." Political speech encompasses more than just politicians; it includes political issues. Whether Dikeman would be for or against this type of political speech, I legitimately do not know. His tone, however, does not suggest a ringing endorsement of the idea.

Finally, the whammy question for libertarians on campaign finance: should corporations be able to spend money on political speech *that supports a specific candidate*? The libertarian answer to this is yes, in spite of our well-documented enmity toward crony capitalism.

To answer this requires delving into a bit of libertarian philosophical theory. Libertarians, including Neal Dikeman, devolve decisions to the most local unit possible. Federalism is the political embodiment of this ideal. [Individualism](#) is its moral embodiment. Individuals are the moral agents responsible for their decisions. Accompanying individual moral responsibility are individual rights. (A libertarian version of Spiderman might read: with great individual moral responsibility comes great value for the rights of the individual).

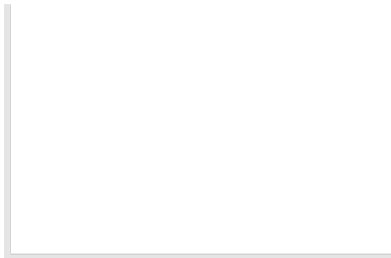
Individuals retain their rights regardless of the collectives of which they are a part. Getting together in a group and calling yourself a government does not mean the rights of those individuals dissolve. Why then, should gathering together in a group and calling yourself a corporation be any different? Essentially, what is a corporation if not a conglomerate of individuals, all of whom retain the same right to political speech as the wealthy individual from the first question? If this conglomerate of individuals decides to spend money on producing and promulgating political speech in support of a specific candidate, there is no libertarian justification for barring them from doing so.

Applying the libertarian view of money spent on political speech, we find that Dikeman's case is at least slightly anti-libertarian. (I would say it has the same hint of anti-libertarianism that La Croix has of lime).

In the press release, the Dikeman campaign would have you believe that CNN's legitimate business interests only extend to "campaign-related news." This is an absurdly reductive view. CNN is in the business of providing a broad range of political content, not just "campaign-related news." Spending money on promoting the upcoming town hall with Beto O'Rourke is obviously germane to CNN's financial interests. Libertarians do not typically like to use government to interfere with the legitimate operations of a corporation.

Because CNN is in the business to provide political content, Dikeman's claim that promoting this event amounts to a "political contribution" to *Beto for Texas* is itself a stretch. The primary reason for continuing to host this event with a single candidate could be to attract viewers, which is in the legitimate financial interests of the corporation. If the auxiliary effect of that business decision is that Beto O'Rourke gets an hour of prime time, that can hardly be considered a purposeful contribution to his campaign.

Finally, if CNN wants to spend that hour extolling the virtues of Beto O'Rourke and cursing the ground on which Ted Cruz treads, there is no justifiable reason that they should not be able to do so. Joining into a conglomerate of individuals as a corporation does not dissolve individual rights. Individuals can spend money producing and promulgating political speech in support of candidates; corporations should be able to do likewise.



Even if Dikeman's campaign is correct on the merits of the case as it relates to current FEC regulation, the case itself rests on a regulation that libertarians should reject. For Dikeman to prosecute this case under a logic that is consistent with a libertarian worldview, he would need to explain at which point the conglomerate of individuals known as CNN loses its free speech rights. I see no indication that he has.

*For further reading on libertarian political philosophy, David Boaz provides a very approachable introduction to libertarianism in [The Libertarian Mind](#). This article uses Boaz's book as a canonical source of traditional libertarian philosophy.*

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