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GOP Dirty Tricks Campaign Seeks to Divide California's Electoral Votes

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Let the candidates kiss babies, raise money, and issue position papers. While voters and reporters are watching the TV debates, a small group of right-wing GOP donors and political consultants (several with close ties to Rudy Giuliani) are maneuvering to hijack the November 2008 election by changing the rules in mid-contest. Their plan: change California's winner-take-all system to require that electoral votes be awarded based on how individual congressional districts vote for president. If their plan goes into effect, Democrats fear that the Republican candidate could capture 20 of California's 55 electoral votes, which is enough to win the White House.

The GOP wizards have until November 29 to gather 434,000 valid signatures (2.78 percent of the state's 15.7 million registered voters) in order to qualify for the June 2008 statewide ballot.

Since the plan was first hatched in July, it has gone through a number of starts and stops because the GOP was initially unable to raise enough money to gather signatures and was hampered by infighting between GOP donors and consultants. But in late October GOP Rep. Darrell Issa, one of the richest and most ambitious members of Congress, came to the rescue with a big check and a new team of veteran Republican operatives.

The plot began last July when Thomas Hiltachk, a lawyer for the California Republican Party and Gov. Arnold Schwazengger's personal lawyer on election matters, filed the paperwork in Sacramento. According to the Associated Press, Hiltachk's firm, Bell, McAndrews & Hiltachk, also has ties to Bob Perry, the Texas homebuilder who contributed nearly \$4.5 million to the Swift Boat Veterans for Truth (the organization that attacked John Kerry's Vietnam war record during the 2004 presidential campaign). Perry funded a California political committee in 2006 that paid the law firm \$65,000 in fees. But it doesn't appear that Hiltachk was able to dip into Perry's pockets to fund the misleadingly-dubbed California Presidential Reform Act.

In fact, the identity of the people behind the idea, including who was putting up the money, was initially shrouded in mystery. The campaign got off to a slow start. It wasn't until Sept. 11 that the campaign received its first significant donation of \$175,000. That amount fell far short of the \$2 million or so needed to gather sufficient signatures and to qualify a measure for the ballot. The check came from a Missouri attorney, Charles A. Hurth III, who had created a company called TIA Take Initiative America to funnel the funds. But Hurth refused to disclose the names of his donors. Eventually it came out that the man behind the \$175,000 curtain

was Paul Singer, CEO of Elliott Associates, a Wall Street investment fund. Singer has also been a top fundraiser for Giuliani.

Some Democrats claimed that Singer's donation violated federal campaign-finance laws if the Giuliani campaign could be linked to it because candidates and their agents can't legally direct money to a campaign that impacts the presidential campaign. Giuliani has denied any link between his campaign and Singer's donation to the California initiative.

But thanks to Singer's generosity, the campaign had enough dough to begin paying signature-gatherers to find people to sign their petitions.

Hiltachk hired campaign consultant Mike Arno to oversee the effort. In less than two weeks, Arno's army collected 100,000 signatures, but the campaign stalled when money stopped coming in. Chris Lehane, a Democratic consultant who was Al Gore's press secretary and has close ties to Hillary Clinton, and Rick Jacobs, a Democratic activist close to Howard Dean who heads the Courage Campaign, a netroots effort, led the opposition campaign.

They raised enough money (including a check from deep-pocket Democrat Stephen Bing) to buy TV, radio and print ads calling the scheme a "partisan power grab," and arguing that "dividing California's electoral votes only hurts Californians." Lehane and his cohorts also persuaded many of California's major newspapers to editorialize against the GOP plan. The state Democratic party sent out 800,000 e-mails to recruit 800 volunteers who went toe-to-toe with Arno's army at petition sites, and talked people out of signing.

The Courage Campaign also led an effort to get Schwarzenegger to oppose the measure, but when he finally broke his silence, it was difficult to interpret his statement on KABC-TV as a strong challenge to his fellow Republicans. Changing the rules in the middle of the game, he said, "almost feels like a loser's mentality, saying 'I cannot win with those rules. So let me change the rules.'" The Terminator said that he hadn't made a final decision on whether to support the initiative but, nevertheless, added: "I would say there is something off with this whole thing."

With or without Schwarzenegger on board, it looked like the Dems had pushed the Republican plan into a ditch.

"From Day One, we were out on the field blasting everything they were doing - and it went down in flames in record time," Bob Mulholland, spokesman for the California Democratic Party, said at the time.

"We have stopped gathering signatures because we have no money," explained Arno.

On September 27, angry that even he didn't know the identity of the campaign's largest donor and unable to raise sufficient runs, Hiltachk resigned from the committee. The campaign spokesman, Kevin Eckery, resigned, too. Arno stopped gathering signatures. "The campaign never got off the ground," GOP political consultant Marty Wilson told the *Los Angeles Times*.

But the idea of stealing California's electoral votes was too good for the national GOP big-wigs to let fail. All it needed was a mischievous millionaire to rescue the scheme from the incompetents.

That's when Darrell Issa came riding in on his white elephant to save the day. Issa, a conservative Republican who has represented the 49th Congressional District in northern San Diego County since 2001, started the Viper car alarm company (later renamed Directed Electronics), which became the world's largest manufacturer of vehicle security systems. He served as chairman of the Consumer Electronics Association and in the early 1990s began bankrolling Republican candidates. He chaired the 1996 campaign to pass Proposition 209, which banned state use of racial quotas and preferences. In 1998, despite spending about \$10 million of his own money, he lost the Republican U.S. Senate primary to Matt Fong, who went on to lose to Senator Barbara Boxer. Two years later, he spent \$1.5 million of his own money to win a safe GOP Congressional seat.

In 2003, he spent \$2.3 to bankroll the signature-gathering effort to recall Gov. Gray Davis, who had barely won re-election the previous November. Issa expected to run for Davis' job, but he was pushed aside by Schwarzenegger.

Now he's back on the scene, ponying up and raising the bucks needed to resurrect the GOP's dirty tricks scheme to divide California's electoral votes, which Issa and his pals now call the California Counts campaign. *The New York Times* reported that Issa made an initial \$50,000 contribution to the initiative and was actively soliciting contributions from others. *The San Jose Mercury News* reported that soon after Issa stepped into the campaign in late October, it had nearly \$2 million in the bank.

"He's definitely a prominent and top donor," campaign spokesperson Dave Gilliard told Bloomberg News. "His involvement brings a large amount of credibility and sends a message to Democrats that this is serious and sends a message to Republican donors out there who might be interested in giving that this is a serious effort."

The new campaign hopes to enlist donors from supporters of all the major GOP candidates, not just Giuliani backers. With Hiltachk out of the picture, the initiative is now headed by veteran GOP operatives Ed Rollins and Ann Dunsmore. Rollins is a pollster and political consultant, best known for his work on Ronald Reagan's 1984 re-election campaign, who titled his autobiography, "Bare Knuckles and Back Rooms." Dunsmore headed fundraising for Bush in California in 2000 and 2004 and was raising money for Giuliani until September.

They brought Mike Arno back to continue running the signature gathering effort. According to Arno's website, his firm, which he started in 1979, has collected over 120 million signatures over the past 28 years for two Presidents, many Governors and members of Congress, and various Fortune 500 corporations. But, according to a new report, *Bad Actors in the Signature Gathering Process*, by the Ballot Initiative Strategy Center, Arno has also been accused of "deception and illegalities in his signature gathering practices" in Washington, Oregon, Florida, Massachusetts and Nevada.

To qualify for the June ballot, the Republican team needs to gather 434,000 signatures from registered voters by the November 29 deadline. Because many signatures are typically invalid, they will try to reach at least 650,000

signatures. Arno's first wave gathered about 100,000 signatures. *The New York Times* reported that Arno is paying signature-gatherers \$3.75 a signature.

Assuming they can get enough signatures to put the question before the voters, can they win? The chances are slim, but not impossible.

The California presidential primary takes place in February and, with so many candidates in the race for both parties, it is likely to be a high turn-out election. But the June ballot lacks much excitement. With no big-name candidates on the ballot to draw voters, the Republicans and Democrats will both seek to mobilize their respective hard-core voters.

A California Field Poll in August found that 47 percent of those surveyed supported the idea and 35 percent opposed. Some voters apparently accepted Hiltachk's initial argument that the winner-take-all system "does not reflect the vast diversity of our state and the regional differences of our citizenry."

But the Democrats' subsequent opposition campaign clearly had an impact. A poll released in late October by Greenberg Quinlan Rosner Research showed that 53 percent of Californians oppose the initiative, compared with 22 percent who support it and 25 percent who are undecided. Democrats (59% no, 20% yes) are most opposed, but independents (51%-25) and even Republicans (46-22%) reject the measure, too.

The Republicans will likely have a sizable war chest to try to reverse that trend by June. And, as we saw in Florida in 2000 and Ohio in 2004, the Republicans are persistent and willing to play hard ball when the presidency is at stake. They view this California strategy as a way to change the outcome of next year's election.

California was once a solid Republican state. Between 1952 and 1988, the state voted for every GOP presidential candidate except LBJ in his landslide victory over Barry Goldwater in 1964. Since 1992, as the state experienced massive immigration and other demographic changes (including the exodus of many white conservative voters), the Democrats have turned the tables, winning every presidential contest in California.

California is the nation's biggest Electoral College prize with 55 votes, 20.5 percent of the 270 total needed to win the presidency. This election season, Democrats have come to California to raise money, but they didn't think they'd have to spend it there. Because California was considered a safe Democratic state, the party's strategists assumed that they had its crucial 55 electoral votes in their pocket. They could concentrate targeting the party's money, media, voter registration, and election day get-out-the-vote efforts in the big swing states like Ohio and Florida.

Now the Democrats are being forced to spend money in the Golden State. First, they have to re-up their efforts to stop the GOP from gathering enough signatures to get it on the ballot. Led by Jacobs' Courage Campaign, the party faithful are raising money for another round of media ads. They recently launched a YouTube ad with Emmy award-winning actor Bradley Whitford, star of the popular "West Wing" TV show, decrying the GOP's dirty tricks campaign.

If the GOP initiative gets on the June ballot, Democrats will have to spend millions of dollars trying to defeat it. And if a majority of California voters support the June initiative, whichever candidate wins the Democratic nomination will be forced to spend a lot of money and a lot of time in the state that would otherwise have been targeted elsewhere.

This is clearly something the Democrats would like to avoid.

Nineteen of California's 53 congressional districts are currently held by Republicans. In 2004, however, Bush carried 22 districts. If the GOP plan is passed, it would give the Republicans a fair shot at winning at least 20 electoral votes next year. The remaining two electoral votes would still go to the state's overall winner.

Democratic strategists fear that the loss of 19 or 20 electoral votes would throw the 2008 presidential election to the Republican nominee.

There's nothing in the Constitution that requires states to divvy up their electoral votes a certain way. Currently, Maine (with four electoral votes) and Nebraska (with five) allocate their electoral votes based on the popular vote in Congressional districts, but neither state has had a split vote in any of the last five elections. All other states have adopted the winner-take-all system.

Changing the winner-take-all rules in only one state and a Democratic-leaning state with 55 electoral votes at that is not a reform based on principle but a strategy based on short-term political opportunism.

As Harvard historian Alexander Keyssar recently wrote in *The Los Angeles Times*:

"If the Republicans truly believe that it would be fairer and more democratic to choose electors by district, then instead of introducing such plans piecemeal in states where they would benefit, they should introduce a constitutional amendment to create a national district system -- one that would apply to Texas and South Carolina as well as California."

But divvying up the electoral votes by Congressional district is simply another version of the winner-take-all approach. For example, if the Republican candidate gets 45% of the popular vote in a Congressional district, the Democrat gets 35%, the Greens get 15%, and the Libertarians get 5%, the Republican candidate would still win that district's electoral vote, and the other three parties would be shut out.

Many liberals would, in fact, prefer some kind of European or Canadian-style proportional representation (PR) system to the current winner-take-all system, so that a range of political parties across the spectrum could have a chance to elect their candidates to office. Different versions of a multi-party PR system can work for electing people to the city council, state legislature and Congress. But the PR approach can't work for electing a President.

Of course, many Americans, and most liberals, don't even like the Electoral College system, which was created by the Founding Fathers to keep ordinary citizens from having too much influence. If given a choice to change

the system, most would favor eliminating the Electoral College altogether and electing the President by popular vote.

In the meantime, though, the GOP tricksters are working hard to turn California into a swing state, so they can swing next year's election to Giuliani, Romney, McCain, or another one of their Republican brethren.

The best weapon the Democrats have to defeat the GOP power-grab is to point out the consequences. As Bradley Whitford explains in his YouTube video: "My children cant afford another Republican president."

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