

How David Vitter Shattered Another Campaign Finance Rule

Creative lawyering finds a way to use \$1 million Louisiana had locked away, creating a new model for candidates to copy across the country.



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David Vitter had a \$1 million problem. Back in January, by the time the Louisiana senator announced his long-rumored run for governor, Vitter had already lined up supporters and developed a campaign battle plan. Still, one major hurdle remained: State law barred him from using the seven-figure sum he had amassed in Senate campaign funds.

But through a super PAC and some creative lawyering, Vitter and his allies appear to have found a way to redirect all of that money to support his gubernatorial campaign. And in doing so, they've pioneered a new method for politicians nationwide to get around old prohibitions on spending federal money on state races, and vice versa.

Along the way, Vitter has become perhaps the first politician in the country to be the largest funder of his own super PAC.

At the center of Vitter's scheme is Charlie Spies, the same GOP lawyer who helped launch Mitt Romney's biggest super PAC. In early 2013, Spies created the Fund for Louisiana's Future and registered the super PAC both federally and in Louisiana "to be able to support Senator Vitter whether he ran for U.S. Senate reelection or for governor," Spies told *National Journal*.

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It was only weeks after Vitter announced he would run for governor that a \$100,000 check arrived, on Valentine's Day, to be precise, from Vitter's Senate account to the Spies-run super PAC.

It was a strange transaction, at first blush. As a rule, politicians always want to keep control of their campaign funds. Yet here was Vitter sending his hard-raised cash to a group he legally could not control or even communicate with about strategy.

Indeed, his donation to the super PAC only makes sense when seen as a means to skirt the Louisiana law forbidding Vitter from transferring his federal campaign cash to his gubernatorial campaign.

“Absent that law, there’s zero reason that a candidate would do it,” said Paul S. Ryan, senior counsel to the Campaign Legal Center, a nonpartisan watchdog group that advocates for campaign finance reform.

Larry Norton, a former general counsel for the Federal Election Commission, said Vitter funding his own super PAC “strikes me as raising the questionableness of the separation of the super PACs and the campaign to a new level.”

The whole notion of a super PAC’s independence from the campaign “rests on the idea that they’re not communicating about strategy or plans, or projects,” Norton said, noting that he’d never heard of a candidate doing this before. “But guess what — the candidate is going to fund the super PAC? You sort of wonder at what point the argument collapses under its own weight.”

Vitter’s campaign did not return calls for comment.

WHO WILL THIS BENEFIT?

The Vitter-Spies arrangement sets a precedent well beyond the bayou. Currently, politicians must navigate state laws on campaign-cash transfers. Some states allow money to move between federal and state campaigns. Others expressly forbid it. In Pennsylvania, for instance, Rep.

Allyson Schwartz, who recently lost her bid for the Democratic nomination for governor, was allowed to transfer more than \$3 million from her congressional account to that race. But in Arkansas, Republican Rep. Tim Griffin, who is running for lieutenant governor, can't tap his congressional funds. Instead, he's refunded his federal donors more than \$223,000 — and now he can only hope they'll send the money back to his state campaign.

The arrangement could work also for state officials running for federal office. The impact could be especially acute in California, where politicians often raise big money for state races only to have it languish idle and ineligible for federal campaigns.

For instance, in the primary to succeed retiring Rep. Henry Waxman, which will be held on Tuesday, state Sen. Ted Lieu has more than \$750,000 sitting unused in a state account. Under the Vitter arrangement, Lieu would have needed only a trusted friend to open a super PAC and publicly announced it was dedicated to electing Lieu; he then could have transferred his money there.

In theory, a potential presidential candidate, serving as governor of a state with loose donation limits, could raise money in chunks far larger than the current presidential limits and then use the proceeds to seed a supportive super PAC.

Back in Louisiana, Spies and Vitter weren't done yet. There was a reason Vitter's initial check was for only \$100,000 and not the full nearly \$1.1 million in his account at the end of 2013. Under Louisiana law, \$100,000 was the legal maximum any entity could contribute to a PAC. (Among the other \$100,000 donors to the Vitter super PAC, which has raised \$1.6 million, are the American Chemistry Council and Bollinger Shipyards.)

But, with the Supreme Court throwing out such limits on outside groups in the *Citizens United* decision, Spies petitioned the Louisiana Board of Ethics to toss its limits, too. The board rejected Spies's challenge but he was more successful in federal court. In early May, a federal judge axed Louisiana's \$100,000 limit. Now Vitter can transfer all his Senate cash to the Spies super PAC.

"We were, of course, pleased that the federal court in Louisiana ruled favorably in our argument," Spies said. He declined to say if he expected Vitter to shift the rest of his federal cash to his super PAC. "We don't comment on specific donors and that would include money given by other campaigns. There's no reason to telegraph strategy or upset donors by talking about specifics."

The unique arrangement could still face further legal challenges. Louisiana law bars a federal candidate from transferring federal money to his own state committee but also "to any other political committee which supports the candidate." Since its creation, Spies has been open about the fact that the Fund for Louisiana's Future exists to back Vitter.

HOW CLOSE IS TOO CLOSE?

In addition, there is extensive overlap between Vitter's political team and the Fund for Louisiana's Future.

Last September, Vitter was the star guest at an alligator hunt in south Louisiana that benefited the super PAC. The contact person for potential donors was Courtney Guastella, a fundraiser on the payroll of both Vitter's Senate committee and his gubernatorial super PAC. Guastella has been paid \$55,476 by Vitter's Senate committee since the beginning of 2013 and \$97,273 by the super PAC.

She's not the only one. The fundraising firm of Lisa Spies, Charlie's wife, was paid \$9,726 by the super PAC since the start of 2013 and \$59,546 by Vitter's Senate committee. Spies's law firm itself, Clark Hill, has also done work for both Vitter and the super PAC.

The Campaign Legal Center filed a Federal Election Commission complaint earlier this year alleging Vitter's overlapping fundraisers violated the law by soliciting outsized donations for the super PAC.

Spies insisted the Fund for Louisiana's Future is legally independent. "We fully comply with all Federal Election Commission and Louisiana rules regarding coordination," he said. "The super PAC is an independent entity and all spending decisions by the super PAC will be made independent of Senator Vitter and his campaign."