

Navigating Arizona's New Campaign Finance Laws

Making Your Business a More Relevant Part of the Political Process

Presented by:

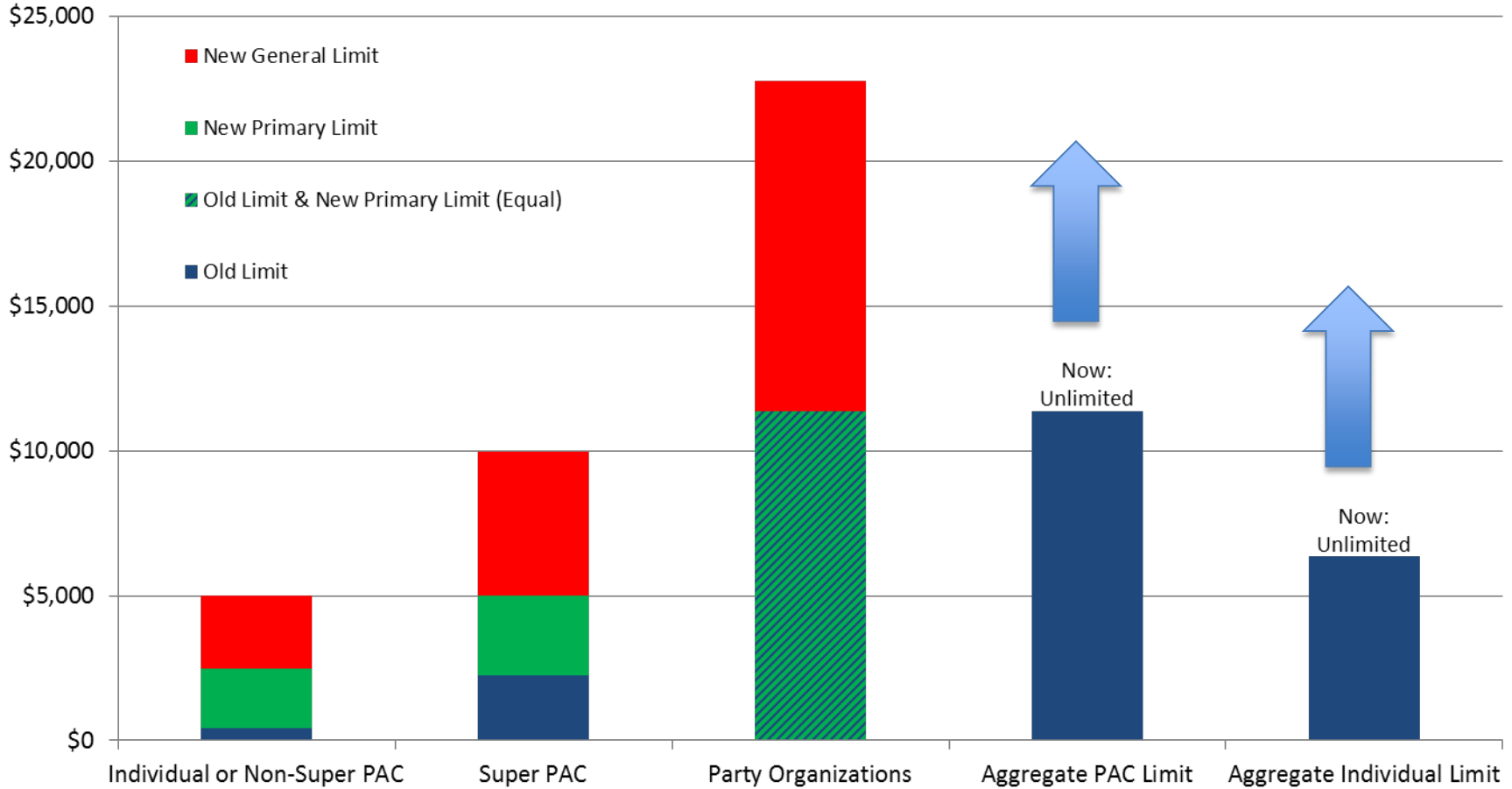
Janna Day
Kory A. Langhofer

 Brownstein Hyatt
Farber Schreck

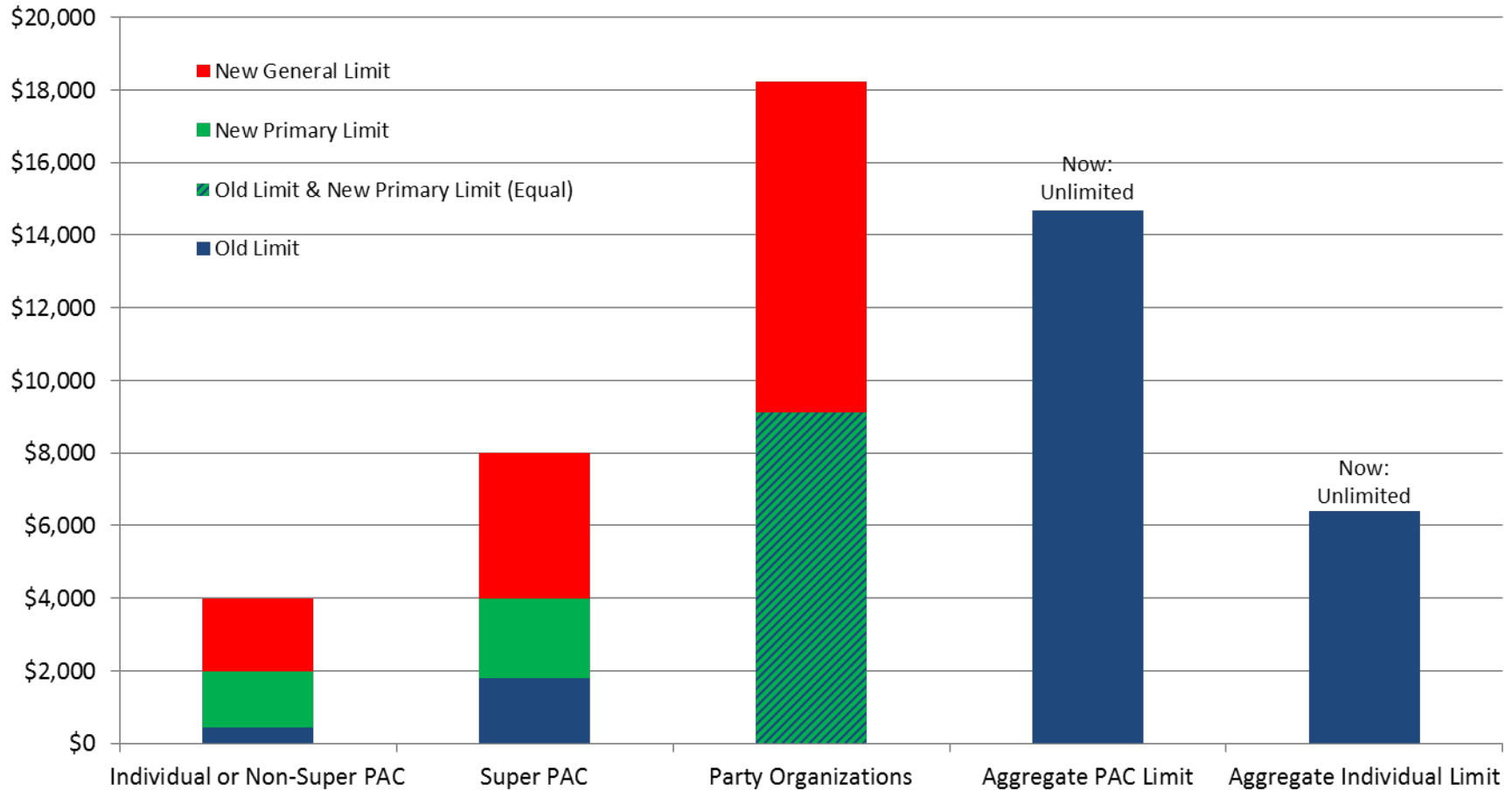
Major Topics

1. Increased Contribution Limits
2. New Accounting Requirements
3. Lawsuit Challenging H.B. 2593
4. Federal Guidance as a “Safe Harbor” (S.B. 1454)
5. Miscellaneous Housekeeping Changes

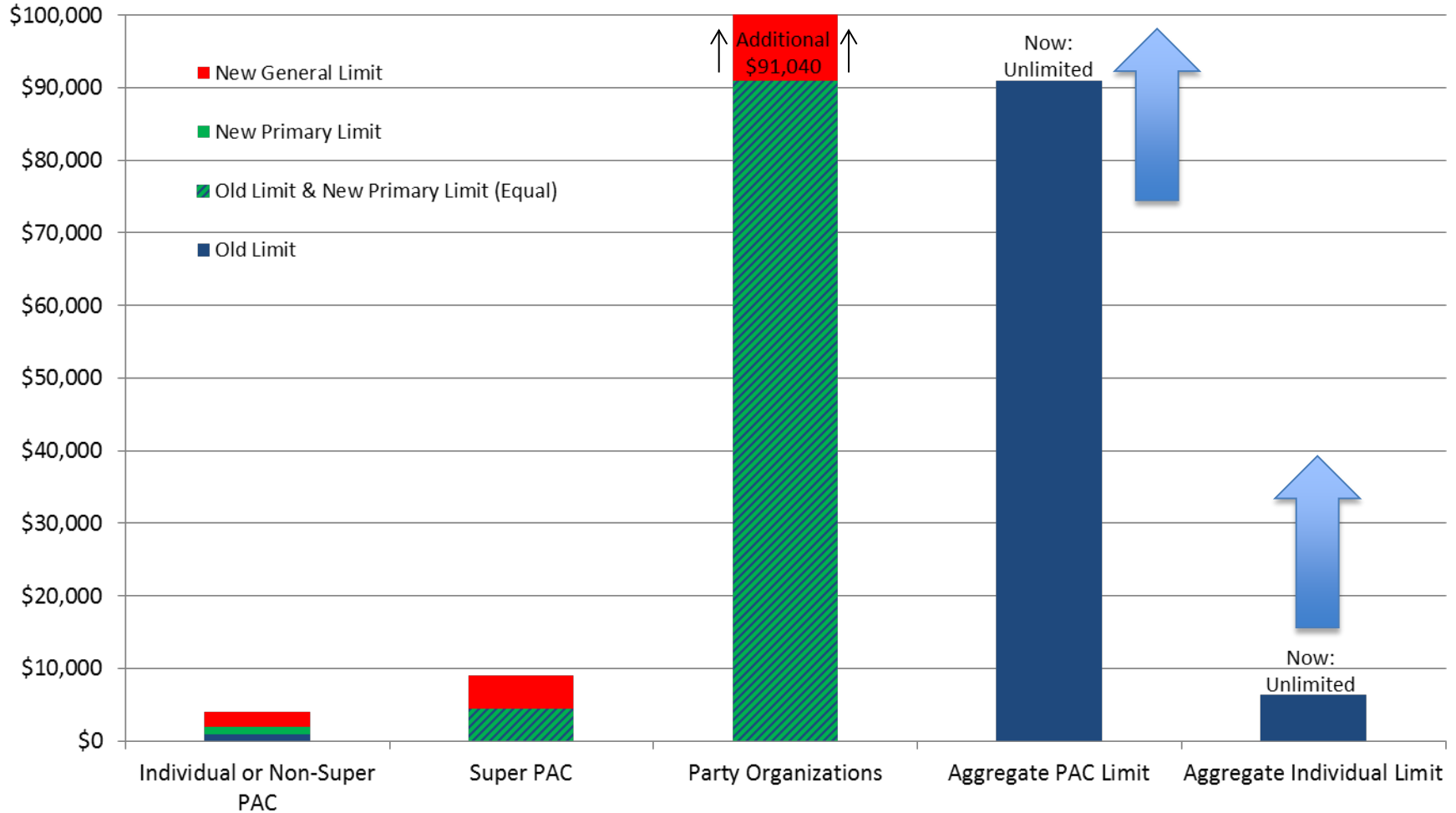
New Contribution Limits: Local Races



New Contribution Limits: Legislative Races



New Contribution Limits: Statewide Races



New Contribution Limits

	<u>Local Candidate</u>	<u>Legislative Candidate</u>	<u>Statewide Candidate</u>
<u>Individual or Non-Super PAC</u>	\$2,500 (x 2)	\$2,000 (x 2)	\$2,000 (x 2)
<u>Super PAC</u>	\$5,000 (x 2)	\$4,000 (x 2)	\$4,560 (x 2)
<u>Affiliated Party Organizations</u>	\$11,390 (x 2)	\$9,112 (x 2)	\$91,040 (x 2)

New Accounting Requirements

- Before: “Election” was defined to include entire 2-year election cycle.
- Now: Two “elections” in a cycle (*i.e.*, primary and general).
- Compliance now requires much more sophistication:
 - Two bank accounts/accounting systems. Campaigns must maintain separate records for the primary election and the general election.
 - Two committees? The Attorney General expressly concluded that one committee could serve as both a primary election committee and general election committee—but the Secretary of State disagrees.
 - Intra-Campaign Transfers? The Attorney General has indicated that a committee can transfer up to \$2,000 from a **particular donor** between a primary account and a general account. The Secretary of State believes intra-campaign transfers are limited to an **aggregate** of \$2,000.
 - \$1,000 Reports. Candidate committees must provide notice within 72 hours

Lawsuit Challenging H.B. 2593

- The Citizens Clean Elections Commission sued to prevent the new contribution limits from taking effect.
 - They argued that the new limits are invalid under the Voter Protection Act because they (a) undermine the Clean Elections Act and (b) were not approved by a legislative supermajority.
- The court preliminarily upheld the new limits.
 - The court held preliminarily that (a) the Commission and other plaintiffs have “standing” to sue and (b) the Voter Protection Act does not protect the Clean Elections Act.
- The ruling is under appeal—but may not be complete before the 2014 election. The new law will remain in effect for the foreseeable future.

Relying on Federal Guidance: Raffles and Charitable Matches

- A new “safe harbor” permits connected organizations to rely on FEC rules and guidance to interpret Arizona statutes re: PAC administration.
- Activities permitted under FEC rules include:
 - Charitable PAC Match
 - Tiered Recognition of Donors
 - Promotional Items/ Door Prizes
 - Note, however, that Arizona anti-gambling laws regulate (and in some cases prohibit) raffles and similar activities.

Promotional Items, Entertainment and Raffles

- A corporation may provide tangible premiums to encourage PAC contributions, through door prizes and other promotions. The aggregate cost of the prizes, however, may not be disproportionately numerous or valuable in comparison with the contributions raised by the promotion. If the cost of the prizes offered is high in comparison with the amount of money raised, then the SSF will have to reimburse the connected organization for a portion of its costs.
- 1/3 Rule - an SSF must reimburse its sponsoring organization for that portion of the cost of prizes or entertainment that exceeds one-third of the amount raised in contributions.

One-Third Rule Example

- **EXAMPLE:** A trade association spends \$300 in treasury funds to purchase a TV set as a raffle prize. Sales of raffle tickets raise \$600 in PAC contributions. Since one-third of the amount raised (\$200) is less than the cost of the prize (\$300), then the PAC should reimburse the association for the \$100 difference.



Miscellaneous Housekeeping Changes

- Streamlined IE Disclaimer Rules
 - Before: Different wording and formatting requirements for (a) PACs, (b) organizations making independent expenditures, and (c) ballot measure committees.
 - Now: More uniformity in wording and formatting requirements—but some differences remain based on the identity of the speaker (*e.g.*, IE groups, ballot measure committees) and medium of communication (*e.g.*, television, mail).
- Soliciting Retirees and Families
 - Before: Corporations could solicit stockholders, executives, administrative personnel and their families.
 - Now: Corporations can also solicit retirees and their families.

Miscellaneous Housekeeping Changes

- Targeting Solicitations
 - Before: Membership organizations, trade associations, and cooperatives could solicit **only** its members, stockholders, executive, administrative personnel, and their families (the “restricted class”).
 - Now: Membership organizations, trade associations, and cooperatives may circulate solicitations more broadly, so long as directed **primarily** at the restricted class.
 - Oral solicitations to audience at large meetings/events.
 - Written solicitations in broadly circulated newsletters.

Miscellaneous Housekeeping Changes

- “Coordination” Through Fundraising
 - Before: Any “agent” of a campaign was deemed to have “coordinated” his or her activities and speech with the campaign—and helping raise funds arguable rendered someone an “agent” of a campaign.
 - Now: Serving on the host committee for a fundraiser does not presumptively establish “an arrangement, coordination, or direction.”
- Lower Threshold for “Super PAC” Status
 - Before: Must collect at least \$10 from 500 donors in **1 year**, and “Super PAC” status lasted for **2 years**.
 - Now: Must collect at least \$10 from 500 donors in **2 consecutive years**, and “Super PAC” status lasts for **4 years**.

What to Expect in Fundraising

- Candidates will likely:
 - Request contributions from more PACs, because the aggregate PAC limit has been eliminated.
 - Request larger contributions from sophisticated donors, because limits have increased dramatically.
- With greater demands/opportunities, PACs will likely:
 - Request contributions from more individuals.
 - Request larger contributions from sophisticated donors.
 - Offer charitable matches, drawings, and recognition of donors.
 - Invest more heavily in compliance, in light of growing body of regulations and increased enforcement activity.

Contact Information

- Janna Day
jday@bhfs.com
(602) 382-4056
- Kory A. Langhofer
klanghofer@bhfs.com
(602) 382-4078