

January 15, 2015

Federal Election Commission
Attn: Amy L. Rothstein
Assistant General Counsel
999 E Street, N.W.
Washington, D.C. 20463

Submitted via email

RE: Testimony of Public Citizen on Rulemaking and the McCutcheon Decision:
Aggregate Biennial Contribution Limits (Notice 2014-12)

Please accept the attached comments from Craig Holman, Ph.D., Government affairs lobbyist; Lisa Gilbert, Director; and Taylor Lincoln, Research Director of Public Citizen's Congress Watch division; on behalf of Public Citizen, 215 Pennsylvania Avenue SE, Washington, D.C. 20003.

Craig Holman and Lisa Gilbert would like to address the Federal Election Commission regarding these comments at its February 11, 2015, public hearing. Holman will be discussing the coordination and joint fundraising committee recommendations. Gilbert will be discussing the disclosure recommendation.

Testimony is attached.

Comments provided by :
Holman, Craig



215 Pennsylvania Avenue, SE • Washington, D.C. 20003 • 202/546-4996 • www.citizen.org

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“Importantly, there are multiple alternatives available.... Such alternatives to the aggregate limits properly refocus the inquiry on the delinquent actor: the recipient of a contribution within the base limits, who then routes the money in a manner that undermines those limits.”

--Chief Justice Roberts, *McCutcheon v. FEC* (2012)¹

A sharply divided U.S. Supreme Court once again struck down regulations on money in politics on April 2, 2014, when five justices ruled that the long-standing “aggregate contribution limits” of the Federal Election Campaign Act of 1971 (FECA) are now unconstitutional on First Amendment grounds. *McCutcheon v. Federal Election Commission*, 572 U.S. ___ (2014).

Prior to the *McCutcheon* decision, an individual could contribute up to a total of \$123,200 per election cycle to all federal candidates and committees combined, with sub-limits of \$48,600 to all candidates and \$74,600 to all political committees and parties. This meant that a wealthy donor could give a maximum individual contribution to nine candidates and seven political committees.

Aggregate contribution limits were originally established in the 1974 amendments to Federal Election Campaign Act (FECA) in response to the Watergate scandals that involved allegations of laundered campaign funds, illegal corporate contributions, “bought” ambassadorships by wealthy individuals and secret campaign cash. More specifically, the aggregate contribution limits were offered as a means to avoid circumvention of the individual contribution limits. A wealthy contributor could sidestep the individual contribution limit to a candidate by making multiple contributions to other political committees that would then be spent supporting the same candidate. The aggregate contribution limits were upheld by the Supreme Court in the 1976 *Buckley v. Valeo* decision.²

¹ Chief Justice Roberts, Opinion, *McCutcheon v. Federal Election Commission*, 572 U.S. ___ (2014), at 33-34.

² *Buckley v. Valeo*, 424 U.S. 1 (1976) at 38.

In 2014, the Roberts Court overruled this holding, reversing some 40 years of established campaign finance law. The *McCutcheon* decision expands the rights only of a handful of millionaires and billionaires capable of making campaign contributions in excess of \$123,200. At the same time, the decision removes the bulwark of FECA's language to prevent circumvention of the individual contribution limits. Even the court majority recognized this, and encouraged policymakers to take appropriate steps to preserve the integrity of the contribution limits.

Appropriate remedial actions can and should be taken by the Federal Election Commission within the agency's boundaries for rulemaking. Public Citizen strongly recommends that the FEC take at least three regulatory actions to address the new campaign finance environment in the wake of the *McCutcheon* decision:

- Re-establish the comprehensive system of transparency of money in politics that existed prior to 2007, including full donor disclosure, that is prescribed by law and that the courts have concluded is so valuable to our democratic process.
- Strengthen the coordination and earmarking rules to prevent circumvention of the base contribution limits through such entities as the "super-connected" super PACs.
- Heed the advice of Chief Justice Roberts and limit the size of joint fundraising committees.

1. Donor Disclosure in Campaign Spending

There is no question about the constitutionality of mandating transparency of money in politics; the Court has repeatedly upheld campaign-finance disclosure laws, most recently and notably in *Citizens United* itself. The current era of "dark money" that has cast a pall over our elections does not come from the Court, nor does it come from the law. The current era of dark money in federal elections is traceable almost wholly to decisions, and lack thereof, by the Federal Election Commission.

Perhaps reflecting the Justices' lack of experience in real-world campaigns, the Roberts Court in *Citizens United* naively assumed that in the Internet age there is full disclosure of money in politics, reaffirmed the public's right to know, and even partly justified lifting campaign finance regulations on the grounds of transparency.

In *Citizens United*, Justice Kennedy wrote for the majority:

"With the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits, and

citizens can see whether elected officials are ‘in the pocket’ of so-called moneyed interests.”³

In *McCutcheon*, Justice Roberts reiterated the Court’s confidence in disclosure:

“With modern technology, disclosure now offers a particularly effective means of arming the voting public with information... Today, given the Internet, disclosure offers much more robust protections against corruption... Reports and databases are available on the FEC’s Web site almost immediately after they are filed, supplemented by private entities such as OpenSecrets.org and FollowTheMoney.org. Because massive quantities of information can be accessed at the click of a mouse, disclosure is effective to a degree not possible at the time Buckley, or even McConnell, was decided.”⁴

But Kennedy and Roberts are gravely mistaken about the real world of campaign finance disclosure. Transparency of money in politics today is sorely lacking. And while some parts of the so-necessary disclosure regime can be enacted by other agencies—the SEC on corporate spending transparency for example—the bulk of the solution to this lack of disclosure lies at the steps of the FEC.

At the federal level, the initial fading of campaign finance disclosure began from an errant rulemaking by the Federal Election Commission. In response to the 2007 *Wisconsin Right to Life* decision, the FEC revised the disclosure rule by exempting groups that made electioneering communications from disclosing contributors’ identities except in special cases in which donors specifically earmarked money for that purpose.⁵ A similar earmarking requirement for disclosure has also been applied to independent expenditures.

Because few donors are apt to attach such specific instructions to their contributions, the effect has been to gut the disclosure requirement enshrined in BCRA – despite the fact that the federal statute calls for full donor disclosure.

According to an analysis by Public Citizen,⁶ among groups broadcasting electioneering communications in federal elections, nearly 100 percent disclosed their funders in the 2004 and 2006 election cycles (the first two election cycles after BCRA created this category of campaign ads). In the 2008 elections, the first after *Wisconsin Right to Life* and the revised FEC rule on disclosure, the share of groups disclosing their funders plummeted to less than 50 percent. In 2010, barely a third of electioneering communications groups disclosed their funders.

³ *Citizens United*, 588 U.S. at 370.

⁴ *McCutcheon*, 572 U.S. _ at 24.

⁵ 11 C.F.R. §104.20(c)(9).

⁶ Taylor Lincoln and Craig Holman, *12 Months After: The Effects of Citizens United on Elections and the Integrity of the Legislative Process* (2011), available at: <http://www.citizen.org/documents/Citizens-United-20110113.pdf>

Among groups making independent expenditures (expenditures expressly intended to influence elections) in federal elections, disclosure of donors fell from 90 percent in 2004 and 97 percent in 2006 to only 70 percent in 2010. Combining the loss of donor disclosure behind electioneering communications with the loss of donor disclosure behind independent expenditures, the sources of only about half the funds spent by outside groups in the 2010 federal elections were disclosed to the public. [See Appendix A, “Disclosure Eclipse (2010)"]

There was a modest up-tick in donor disclosure in the 2012 elections, due almost entirely to the new prevalence of so-called “super PACs,” which are registered political committees subject to federal disclosure laws. According to the Center for Responsive Politics, 24 percent of outside spending groups provided no donor disclosure, another 24 percent provided partial disclosure, and only about 52 percent of outside spending groups provided full disclosure of their funding sources.⁷ But the total amount of “dark money” in the 2012 elections – at least \$310 million – exceeded the amount of undisclosed money in any previous election.⁸ According to the Center for Responsive Politics, estimates of dark money in the 2014 midterm elections are about \$173 million, the highest of any previous midterm.

Dark money will continue to plague our elections, and continue to be a source of frustration and cynicism among the electorate, until such time as the FEC comports with the law and court rulings and re-establish regulations mandating full donor disclosure of money in elections.

2. Super PACs and the Coordination/Earmarking Rules

Of the alarming trends in the devolution of the nation’s campaign finance system, the lack of transparency concerns the public most. But the emergence of super PACs – so-called independent expenditure committees that may receive unlimited funds from corporations, unions and wealthy individuals – run a close second.

Unlike dark money, super PACs did not come about due to the lack of needed FEC regulation. Instead, they owe their existence to several court rulings, including *SpeechNow.org v. FEC* (2010)⁹, *Emily’s List v. FEC* (2009)¹⁰ as well as *Citizens United*. Based on the assumption that super PACs only make independent expenditures, rather than campaign contributions directly to candidates, the anti-corruption rationale for limiting donations to super PACs no longer holds. As a result, super PACs may receive unlimited donations from corporations, unions and individuals and spend that money independently of candidate campaigns. For the most part, donations and expenditures by super PACs are subject to disclosure.

⁷ Center for Responsive Politics, analysis of disclosure of donors by outside spending groups in the 2012 federal elections, available at:

<http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&disp=O&type=A&chrt=D>

⁸ Center for Responsive Politics, at: <https://www.opensecrets.org/outsidespending/disclosure.php>

⁹ *SpeechNow.org v. Federal Election Commission*, 599 F.3d 674 (2010).

¹⁰ *Emily’s List v. Federal Election Commission*, 581 F.3d 1 (2009).

The problem with super PACs is not so much disclosure, but whether these groups are in fact “independent” of candidate campaigns and party committees. Public Citizen has provided extensive documentation that these groups tend not to be independent at all – in fact, super PACs tend to be “super-connected” to a specific candidate. Not only are these groups frequently established by former campaign workers or family of a candidate, share the same campaign vendors, and have the beneficiary candidate fundraise for the super PAC, super PACs are very likely to support only one single candidate or one single party committee.

Regular political action committees will support a wide number of candidates, oftentimes from both political parties. Not so with super PACs. Among outside electioneering groups that receive unlimited campaign donations, in the 2012 presidential elections 49 percent spent all of their money supporting a single candidate. In the 2014 congressional elections, 35 percent spent all of their money supporting a single candidate. Nearly all of these groups were super PACs. The percentage goes up when including super PACs that support a single party committee. Cumulatively, single-candidate and party-connected super PACs accounted for 65 percent of the money spent by these groups in the 2012 presidential election and 45 percent of the money spent in the 2014 congressional elections. Among just super PACs in the 2014 elections, 45 percent spent all of their money supporting a single candidate. Most of these super PACs were established and run by people who worked on the candidate’s campaign.¹¹

This information strongly supports what many political observers already treat as an undisputed fact: that a large percentage of super PACs are not truly independent of the candidate they support.

But the close working relationship between a super PAC and a candidate passes muster under the inadequate FEC coordination rules. While super PACs are not supposed to coordinate their activities with a candidate or party committee, super PACs can easily be established and run by former campaign staff of the candidate, share campaign vendors with the candidate, support only the one candidate, and the candidate may help raise funds for his or her super PAC – all without be considered coordinated under FEC rules.

According to the FEC coordination rule, illegal coordination between a super PAC and a candidate usually only occurs if the two discuss and plot campaign strategy within 120 days before a primary for a presidential candidate and 90 days before an election for a congressional candidate.¹² They can share the same vendors even within that time period so long as the vendor does not reveal strategic campaign strategy. And the candidate may raise funds for his or her super PAC at any time, so long as the candidate does not specifically ask for contributions in excess of the \$5,000 limit for regular PACs.

This rule leaves a whole lot of room for coordination. “Coordination limits are essentially a joke if you want to avoid them,” said Michael Franz, an associate professor of government at Bowdoin College. At least [one professional joke-teller agrees](#): Comedian Stephen Colbert

¹¹ Taylor Lincoln, *Super-connected*, Public Citizen (2012); and Taylor Lincoln and Andrew Perez, *Super-connected*, Public Citizen (2014).

¹² For further explanation of the FEC coordination rule, see: <http://www.fec.gov/pages/brochures/indexp.shtml#CC>

recently seized on the issue, ridiculing how some groups seem to be cutting it laughably close with the law.¹³

For instance, in the earliest days of the 2012 presidential campaign, the campaign manager of eventual nominee Mitt Romney initiated a super PAC called “Restore Our Future,” which was run by staff from Romney’s 2008 presidential campaign. Members of the Romney campaign and the Restore Our Future staff reportedly strategized for much of the first half of 2011. Then, to avoid violating coordination rules, the two teams parted company 120 days before the first date on which the super PAC might have wished to air its first ad. (See Appendix B, “Super-connected”)

The problem of super PAC coordination with candidates and party committees is even more accentuated with the *McCutcheon* decision. The Roberts Court recognized the problem that the end of aggregate contribution limits may well lead to circumvention of the base limits by unscrupulous PACs – and recommended that the FEC strengthen its regulations to address the problem.

According to Chief Justice Roberts:

*“Other alternatives might focus on earmarking. Many of the scenarios that the Government and dissent hypothesize involve at least implicit agreements to circumvent the base limits – agreements that are already prohibited by the earmarking rules. The FEC might strengthen those rules further by, for example, defining how many candidates a PAC must support in order to ensure that a ‘substantial portion’ of a donor’s contribution is not rerouted to a certain candidate.”*¹⁴

Public Citizen encourages the FEC to do exactly what Chief Justice Roberts advises: strengthen the coordination and earmarking rules to capture the obvious circumvention to the individual contribution limits that we see at play with today’s super PACs.

The FEC should strengthen its coordination rule to include shared vendors and campaign staff between an outside group and a candidate. Coordination between a candidate and outside group should be defined to include:

- Candidates and outside groups that support the candidate may not share the same vendors;
- Any person who has been employed or retained by a candidate over the previous four years is deemed coordinated with the candidate when it comes to establishing and/or running an outside electioneering group that supports the candidate.
- The candidate would be considered coordinated with an outside electioneering group that supports the candidate if the candidate raises funds for the group during an election cycle.

¹³ Marian Wang, “Uncoordinated coordination: Six reasons limits on super PACs are barely limits at all,” ProPublica (Nov. 21, 2011), available at: <http://www.propublica.org/article/coordination-six-reasons-limits-on-super-pacs-are-barely-limits-at-all>

¹⁴ *McCutcheon v. FEC*, 572 U.S. ___ at 35.

- An outside electioneering group will be considered earmarking funds for the candidate if it spends more than 10 percent of its resources on express advocacy advertisements or electioneering communications directly supporting the candidate in an election.

3. Joint Fundraising Committees

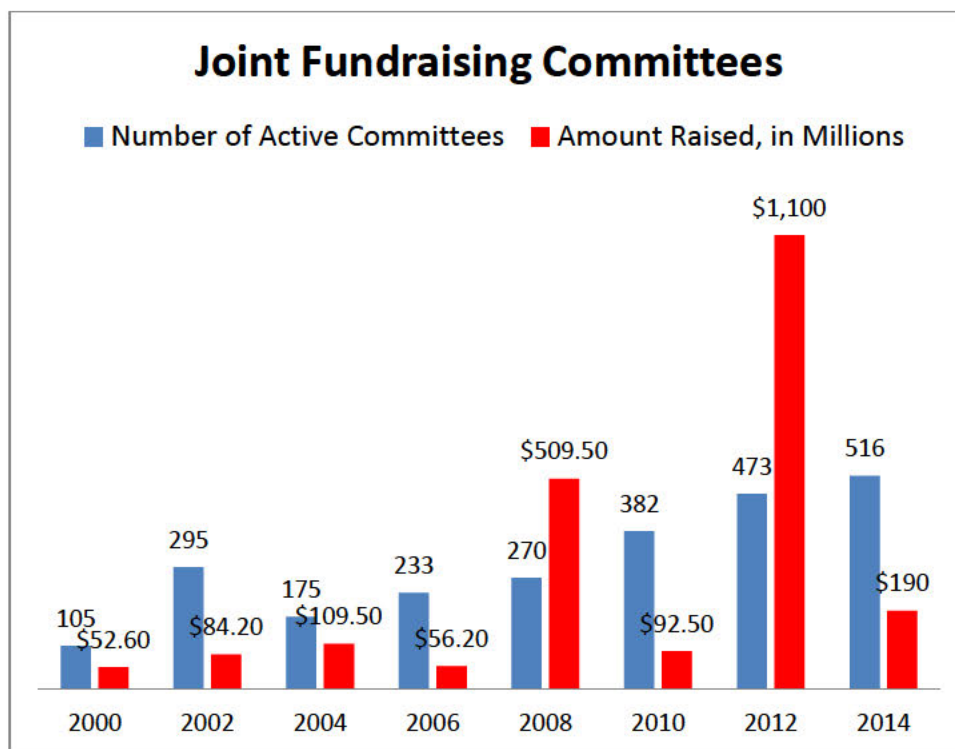
An analysis by Public Citizen shows exactly how much wealthy individuals may drown out the voices of the general public. In a post-*McCutcheon* world, a wealthy donor may contribute up to \$3.6 million in an election cycle to the candidates and committees of a single party, and up to \$5.9 million if officeholder leadership PACs are included in the calculation.¹⁵

In addition to drowning out the voices of the general public in the political process, the *McCutcheon* decision dangerously raises the specter of actual corruption. It would be quite a bit of tedious work for a wealthy donor to hand out separate checks to hundreds of candidates, but that is not how campaign fundraising tends to work in the real world. Fundraising for groups of candidates and party committees is done through a single “joint fundraising committee,” usually run by a congressional leader or party boss. The person heading a joint fundraising committee receives a single large check from a wealthy donor and then doles the money out to participating candidates and party committees in accordance to the base limits.

Joint fundraising committees originally were envisioned as useful fundraising tools in which a couple of candidates joined resources to stage an affordable fundraising event. Joint fundraising committees were few in number and generally accounted for modest donations. But they quickly grew in number and significance since the presidential elections of 2000. Presidential candidates began making extensive use of joint fundraising committees to collect checks from wealthy donors by joining their campaign committees with state and federal party committees, the latter of which already had high base limits of \$25,000 or more depending on the year. By the 2012 presidential election, presidential joint fundraising committees, such as the Obama Victory Fund, could receive checks as large as \$75,800 from a single donor – the maximum amount allowed under the aggregate contribution limits of that year – which was then disbursed to the presidential campaign and party committees dedicated to support the presidential campaign.

Congressional leaders and party bosses took note of the massive campaign funds that could be raised through joint fundraising committees and followed suit. According to the Center for Responsive Politics, the number of active joint fundraising committees in presidential and congressional elections rose from 105 in the 2000 election cycle, raising \$52.6 million for their candidates, up to 473 joint fundraising committees in the 2012 election cycle, raising more than \$1.1 billion. In the 2014 midterm elections there were 516 such committees raising about \$190 million.

¹⁵ Adam Crowther, Beware of a Naïve Perspective (Part 1 of 2), Public Citizen (Jan. 7, 2014) at 7, available at: <http://www.citizen.org/McCutcheon-campaign-finance-analysis-report>. On a separate note, the 2014 Croninbus legislation passed in the waning hours of the 113th Congress contained an unvetted provision creating seven new national party accounts, each of which can raise \$92,700 per donor. These accounts are on top of an FEC approved fourth national party committee to raise funds and pay for the national party conventions. Given that legislation has created a plethora of new fundraising vehicles for the national parties, the FEC should reverse its new rule creating a separate national party committee.



Following the *McCutcheon* decision, joint fundraising committees are expected to explode in number and significance for financing all federal campaigns. Without aggregate contribution limits, the sky's the limit for these entities, which will be run by a congressional leader or party boss. A wealthy individual who seeks to curry favor with the Speaker of the House or Senate Majority Leader now has a legal avenue to hand over a single multi-million dollar check to that officeholder.

To make matters worse, transfers between candidates and parties will make evasion of even the base limits very likely. While joint fundraising committees are required under FEC regulations to create a distribution formula for divvying up their largess among participating candidates and party committees,¹⁶ the recipient candidates and party committees are not so bound. They may make large and, in the case of candidates to parties, unlimited transfers of those funds. As a result, candidates in noncompetitive elections may participate in a joint fundraising committee, receive an allocated contribution through the committee from a donor who maxed out to the national party committees, and then transfer those funds directly to the national party committees, indirectly but legally sidestepping the base limits for that donor.

Chief Justice Roberts specifically stated in *McCutcheon's* plurality opinion that restrictions on transfers of funds involving joint fundraising committees, or limits on the size of joint fundraising committees, may be an appropriate policy response.

¹⁶ 11 C.F.R. 102.17

Roberts wrote:

*“One possible option for restricting transfers would be to require contributions above the current aggregate limits to be deposited into segregated, nontransferable accounts and spent only by their recipients. Such a solution would address the same circumvention possibilities as the current aggregate limits, while not completely barring contributions beyond the aggregate levels. In addition (or as an alternative), if Congress believes that circumvention is especially likely to occur through creation of a joint fundraising committee, it could require that funds received through those committees be spent by their recipients (or perhaps it could simply limit the size of joint fundraising committees).”*¹⁷

Joint fundraising committees are authorized by statute¹⁸ and subject to FEC regulations.¹⁹ The federal election campaign law does not prescribe the structure of joint fundraising committees, other than allowing transfers of funds among participating committees of a joint fundraising committee. It is within the purview of the Federal Election Commission to limit the size of joint fundraising committees, especially in light of the removal of aggregate contribution limits under the *McCutcheon* decision.

Public Citizen strongly encourages the FEC to heed the advice of Chief Justice Roberts and place reasonable limits on the size of joint fundraising committees in order to prevent wealthy donors from handing over very large campaign contributions to those heading a joint fundraising committee. Section 102.17 of Title 11 of the Code of Federal regulations should be amended by requiring: (1) that a joint fundraising committee may only be established by, and serve to benefit, an authorized candidate committee; and (2) that no more than three candidate committees may participate in a single joint fundraising committee.

Limiting the size of joint fundraising committees in this fashion would preserve the original intent of joint fundraising – to allow candidates with limited financial resources to pool fundraising resources – while averting the potentially corrupting influence and circumvention of the individual contribution limits posed by the *McCutcheon* decision.

Conclusion: *McCutcheon* Decision Calls for Remedial Regulatory Responses

The Roberts Court in the *Citizens United* and *McCutcheon* decisions has fundamentally rewritten the nation’s campaign finance laws, posing several new and grave dangers for our democratic system of governance. Some of these dangers have been wrought by the Federal Election Commission’s regulatory decisions that are wholly inconsistent with the assumptions and rationale of the Court; other dangers the Court has even recognized and advised the FEC to take appropriate remedial actions.

¹⁷ *McCutcheon v. FEC*, 572 U.S. ___ at 34.

¹⁸ 2 U.S.C. 432(e)(3)(A)(ii), and 2 U.S.C. 441a(a)(5)(A).

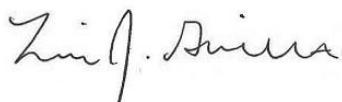
¹⁹ 11 C.F.R. 102.17

In the rulemaking to address the *McCutcheon* decision, Public Citizen strongly recommends that the Federal Election Commission adopt at least three appropriate responses to the new campaign finance environment. First and foremost, the FEC must re-establish the comprehensive campaign finance disclosure system that the agency undermined in 2007 – a system of transparency of money in politics that the Court concluded is so essential. Second, the FEC should recognize what is quite evident to the casual observer that an appropriate regulatory response to the *McCutcheon* decision is to strengthen the coordination and earmarking rules to prevent circumvention of the base contribution limits by such entities as super PACs. Even the Roberts Court recognizes this danger and suggests strengthening these rules. Finally, as recommended by Chief Justice Roberts, the FEC should place reasonable limits on joint fundraising committees to prevent these entities from becoming a major vehicle for circumvention of the base limits.

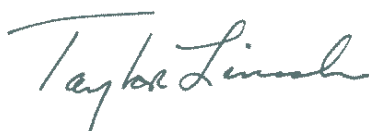
Respectfully Submitted,



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Appendix A

Disclosure Eclipse

Appendix B

Super-connected (2014)



www.citizen.org

Disclosure Eclipse

**Nearly Half of Outside Groups Kept Donors
Secret in 2010; Top 10 Groups Revealed
Sources of Only One in Four Dollars Spent**

November 18, 2010

Acknowledgments

This report was written by Taylor Lincoln, research director of Public Citizen's Congress Watch division.

About Public Citizen

Public Citizen is a national non-profit organization with more than 160,000 members and supporters. We represent consumer interests through lobbying, litigation, administrative advocacy, research, and public education on a broad range of issues including consumer rights in the marketplace, product safety, financial regulation, safe and affordable health care, campaign finance reform and government ethics, fair trade, climate change, and corporate and government accountability.



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Disclosure Eclipse

Before the Supreme Court reversed its positions in two landmark campaign finance reform cases, the public was able to learn the identities of the major funders behind nearly all political advertisements broadcast near federal elections.

These assurances did not apply in 2010, the first election cycle since the court's opinion in *Citizens United v. Federal Election Commission* permitted unlimited corporate and union spending in federal elections.

Of 308 outside groups, excluding party committees, that reported spending money on this year's elections, just 166 (53.9 percent) provided any information about the sources of their funding, according to Public Citizen's analysis of Federal Election Commission (FEC) data.

Of the 10 top spending groups, only three provided information about their funders. These top 10 groups -- which collectively spent \$138.5 million, equal to 52 percent of the \$266.4 million spent by all outside groups in 2010 to influence this year's elections -- disclosed the sources of only 27.1 percent, of the money they spent.

Groups not disclosing any information about their funders collectively spent \$135.6 million to influence this year's elections. That was almost exactly double the \$68.9 million grand total spent by outside groups in 2006, the most recent mid-term election cycle.¹

Although the Supreme Court's opinion in *Citizens United* lauded the virtues of disclosure, the effect of that decision and the court's earlier retrenchment of campaign finance regulation in 2007 has been less disclosure.

There are two chief forms of federally regulated electioneering activities by outside groups: electioneering communications and independent expenditures. An electioneering communication is an advertisement broadcast in the run-up to an election that mentions a federal candidate but stops short of advocating a vote for or against the candidate. Independent expenditures expressly advocate for the victory or defeat of a candidate.

In the years between the passage of The Bipartisan Campaign Reform Act of 2002 (BCRA) and the Supreme Court's 2007 opinion in *Federal Election Commission v. Wisconsin Right to Life*,² the public received almost complete disclosure of the major funders behind electioneering communications and could be assured that such messages were financed solely by individuals. But after the court in *Wisconsin Right to Life* poked a major loophole in BCRA's prohibition on using corporate or union money for electioneering communications, the share of groups revealing the funders of their electioneering ads sunk to less than half in the 2008 election cycle and to just over one-third in the recently completed 2010 cycle.

Disclosure by Groups Making Electioneering Communications, 2004-2010

Year	# of Groups Reporting ECs	#of Groups Reporting the Donors Funding ECs	Pct. of Groups Reporting the Donors Funding ECs
2004	47	46	97.9
2006	31	30	96.8
2008	79	39	49.3
2010	53	18 ³	34.0

Source: Public Citizen analysis of FEC data

Before *Citizens United*, nearly all outside groups making independent expenditures were required by law to disclose the sources of their money. The most common exception

¹ Public Citizen analysis of data provided by the Center for Responsive Politics.
www.opensecrets.org/outsidespending/index.php

² *Federal Election Commission v. Wisconsin Right to Life, Inc.*, 551 U.S. 449 (2007)

³ Americans for Prosperity and Focus on the Family affiliate CitizenLink each disclosed contributions accounting for less than 1 percent of the amount they spent on the elections, are not included among the groups disclosing their donors.

was for certain expenditures by “qualified non-profit” groups, which can only accept money from individuals and are prohibited from engaging primarily in influencing elections.

Although disclosure among groups making independent expenditures was higher in 2010 than for those making electioneering communications, it was much lower than in past election cycles. Among the 30 groups spending the most on independent expenditures from the 2004 through 2008 election cycles,⁴ between 83.3 and 96.7 percent disclosed their funders. In 2010, just 70 percent disclosed.

Disclosure by Top 30 Groups Making Independent Expenditures, 2004-2010

Year	Groups Disclosing Funders	Groups Not Disclosing Funders	Pct.
2004*	26	3	89.7%
2006	29	1	96.7%
2008	25	5	83.3%
2010	21	9	70.0%

Source of top independent expenditure groups, Center for Responsive Politics:

www.opensecrets.org/outsidespending/index.php

* Once case is ambiguous and was not included

Electioneering Communications

BCRA was best known for banning political parties from accepting “soft money,” unlimited contributions that often came from corporations and unions. Political parties evaded the prohibition against using such money for electioneering purposes by crafting ads that avoided using the “magic words” -- such as “vote for” or “vote against” -- that federal courts had interpreted as a threshold for express advocacy.

⁴ Because the number of groups making independent expenditures is far more numerous than those making electioneering communications, analysis for this study was limited to the 30 top spending independent expenditure groups per cycle. The top 30 groups accounted for about 76 percent of independent expenditure spending in 2010 and from between 88 and 94 percent in the 2004 through 2008 election cycles, according to Public Citizen’s analysis of data provided by the Center for Responsive Politics. CRP’s data on outside groups is available at <http://www.opensecrets.org/outsidespending/index.php>.

BCRA also barred outside groups from using corporate or union money to finance broadcast messages in the 60 days preceding a general election or 30 days before primary that mentioned a federal candidate but stopped short of express advocacy. This provision required outside groups to disclose their spending to the FEC within 24 hours of broadcasting electioneering communications and to document that the messages were financed by individuals by disclosing their sources of money.

In December 2003, the Supreme Court upheld BCRA’s soft money ban and its prohibition against corporate and union-sponsored political issue ads in the run-up to elections.

But in June 2007, in the first major campaign finance opinion handed down by the court of Chief Justice John Roberts, the Supreme Court reversed the earlier decision in part by allowing corporate and union money to finance electioneering communications if the ads were “issue oriented.” The FEC responded later that year by watering down disclosure rules to require groups making electioneering communications only to disclose contributions specifically earmarked for that purpose.⁵ This rule enabled trade associations and other outside groups to keep the sources secret.

As mentioned above, the percentage of groups disclosing the financiers of their ads fell from nearly 100 percent before *Wisconsin Right to Life* to less than 50 percent in 2008, and to just over a third in the recently completed election cycle.

Collectively, in 2010, groups making electioneering communications disclosed the sources of only \$17.3 million, or 23.3 percent, of their \$74.3 million in electioneering communication spending.

Only two of the top 10 groups reporting the most electioneering communications spend-

⁵ 11 C.F.R. § 104.20(c)(9)

ing disclosed substantial information about their funders.⁶ The top 10 groups disclosed just 10.8 percent of the money they spend on electioneering communications.

Disclosure by Top Spending Electioneering Communications Groups 2010 Election Cycle

Group	Electioneering Communications Expenses	Contributions Reported
U.S. Chamber of Commerce	\$31,207,114	\$0
American Action Network Inc.	\$16,364,625	\$0
Americans For Job Security (AJS)	\$4,598,520	\$0
Center for Individual Freedom	\$2,500,617	\$0
American Future Fund	\$2,219,776	\$0
Citizens For Strength And Security	\$1,403,110	\$5,752,000
CSS Action Fund Inc.	\$1,391,880	\$0
Arkansans For Change	\$1,335,073	\$0
Americans for Prosperity	\$1,311,631	\$1,000
Campaign Money Watch	\$1,174,718	\$1,125,000
Total	\$63,507,064	\$6,878,000

Independent Expenditures

Before *Citizens United*, corporations and unions were prohibited from making independent expenditures. Such expenditures could primarily be made only by registered political committees, which could only accept contributions from individuals and within established limits (typically \$5,000 a year).

An exception was carved out by the Supreme Court in its 1986 *FEC v. Massachusetts Citizens for Life* opinion⁷ to permit “qualified non-profits” to use contributions in excess of statutory limits to finance independent expenditures. These groups may not accept money from corporations and must not be primarily engaged in electioneering. The law

⁶ Americans for Prosperity, a group co-founded by billionaire David Koch that spent more than \$1.3 million in electioneering communications, disclosed only a \$1,000 contribution from Chicago Tea Patriots LTD.

⁷ *FEC v. Mass. Cit. for Life*, 479 U.S. 238 (1986).

has been interpreted to excuse these groups from disclosing the identities of their contributors, except those who earmarked contributions for electioneering activities.

But, as reported above, the vast majority of groups making independent expenditures use to disclose their funders. About 89 percent of the 30 biggest independent expenditure groups from the 2004 to 2008 election cycles disclosed their funders. These groups, in turn, accounted for 90 percent of all non-party independent expenditures.

While striking down the limitation on corporate-funded independent expenditures in the *Citizens United* opinion, the Roberts Court upheld the constitutionality of BCRA’s disclosure requirements relating to the funders of electioneering communications.

In addition, Justice Kennedy, who wrote the opinion, appeared to rely on the existence of strict disclosure laws as a rationale for lifting the ban on corporate-funded independent expenditures.

A campaign finance system that pairs corporate independent expenditures with effective disclosure has not existed before today. It must be noted, furthermore, that many of Congress’ findings in passing BCRA were premised on a system without adequate disclosure. With the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters.⁸

Such disclosure, Kennedy wrote, would enable citizens to “see whether elected officials are ‘in the pocket’ of so-called moneyed interests.”⁹

⁸ *Citizens United v. Federal Election Comm’n*, 130 S.Ct. 876, 916 (2010) (internal citations omitted).

⁹ *Id.*

But, even for independent expenditures, no provision requires the type of disclosure that Kennedy discussed. The plain rules of BCRA require such disclosures, but the FEC has gutted them.¹⁰

In 2010, as mentioned above, only 70 percent of 30 top spending groups provided any information about their funding sources. These groups disclosed the sources of only 55.4 percent of their independent expenditures.

Collectively, the groups that did not disclose reported spending \$68 million, more than 1.5 times as much as the total independent expenditures in the 2006 election cycle.

Of the ten groups that spent the most on independent expenditures, four disclosed nothing about their funders. The ten groups spending the most on independent expenditures spent about \$90.4 million, accounting for 47 percent of the total. These groups reported the sources of \$46.7 million of their spending, equal to slightly less than half of their independent expenditures.

Disclosure by Top Spending Independent Expenditure Groups 2010 Election Cycle

Group	Independent Expenditures	Contributions Reported
American Crossroads	\$21,553,277	\$22,696,055
Crossroads Grassroots Policy Strategies	\$15,556,204	\$0
SEIU COPE	\$8,340,028	\$8,605,949
American Future Fund	\$7,387,918	\$0
American Fed. of State County And Municipal Employees AFL-CIO	\$7,309,581	\$0
National Rifle Association Of America Political Victory Fund	\$6,702,664	\$6,175,350
60 Plus Association	\$6,698,287	\$0
National Association Of Realtors Political Action Committee	\$6,027,982	\$2,615,989
America's Families First Action Fund	\$5,878,743	\$2,925,000
Club For Growth Action	\$4,946,980	\$3,667,742
Total	\$90,401,664	\$46,686,085

¹⁰ See Public Citizen, *Fading Disclosure 4(2010)*, available at <http://www.citizen.org/documents/Disclosure-report-final.pdf>.



Super Connected (2014)

Outside Electioneering Groups' Ties to Candidates and Parties Discredit Foundational Premise of U.S. Supreme Court's 2010 *Citizens United* Decision

(Update on report published in October 2014)

Acknowledgments

This report was written by Taylor Lincoln, research director of the Congress Watch division of Public Citizen, and Congress Watch researcher Andrew Perez. Perez performed much of the research for the report, including collection of the data.

About Public Citizen

Public Citizen is a national non-profit organization with more than 350,000 members and supporters. We represent consumer interests through lobbying, litigation, administrative advocacy, research, and public education on a broad range of issues including consumer rights in the marketplace, product safety, financial regulation, worker safety, safe and affordable health care, campaign finance reform and government ethics, fair trade, climate change, and corporate and government accountability.



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Methodology and Definitions

- Unregulated outside groups are defined for purposes of this report as those permitted to accept unlimited contributions. These include super PACs, which are required to report their donors, and 501(c) groups, which are not. Unregulated groups exclude conventional political action committees (PACs) and the official committees of the national political parties.
- Calculations of expenditures by outside groups include independent expenditures and electioneering communication expenditures reported to the Federal Election Commission. Calculations do not include communications costs, which represent expenditures by an organization to disseminate messages to its members. Calculations also do not include expenditures that may serve electioneering purposes but are not required to be reported.
- This report analyzes data for groups that have reported spending a combined total of at least \$100,000 independent expenditures and electioneering communications during the 2014 election cycle. These groups account for 99 percent of total spending by unregulated outside groups.
- Groups spending at least 99 percent of their money to benefit a single-candidate are treated as single-candidate groups in this report.
- Filings on independent expenditures disclose amounts of money spent to “support” or “oppose” given candidates. For the data component of this report, these totals are summed to yield a cumulative total spent to assist a candidate, either by supporting a group’s favored candidate or opposing the candidate’s opponent or opponents.
- Many outside groups consist of informally affiliated entities. Calculations in this analysis treat each legal entity distinctly.
- Determinations of which groups operated in service of a national party are based on analysis of the groups’ mission statements, personnel and spending practices.

Introduction

Of super PACs spending a least \$100,000¹ in the 2014 elections, 45 percent devoted all of their resources to aiding a single candidate. [See Table 1] This conclusion adds to an already overwhelming body of evidence that many outside electioneering groups are not truly independent of the candidates or parties they seek to assist.

Table 1: Super PACs: Single-Candidate vs. Multi-Candidate Super PACs in the 2014 Congressional Elections*

Description of Group	Number of Groups	Percentage of Groups	Spending by Unregulated Groups	Percent of Money Spent
Single-Candidate Super PACs	61	45.2%	\$58,591,915	17.1%
Multi-Candidate Super PACs	74	54.8%	\$285,112,711	83.0%
Super PACs Total	135	100.0%	\$343,704,626	100.0%

Source: Public Citizen analysis of data from the Center for Responsive Politics (www.opensecrets.org) and the Federal Election Commission. Data reported by Center for Responsive Politics on Dec. 29, 2014.

* Data include only groups spending at least \$100,000. These groups accounted for 99 percent of spending by outside groups permitted to use unlimited contributions to influence elections.

An outside group's devotion of its resources to aiding a single candidate serves as an indicator that the group is not truly independent, although does not provide conclusive proof. It is conceivable that some groups spending solely to assist a single candidate do so on their own accord, but it is unlikely that many would have chosen to focus on just one congressional race out of 468 general election contests — and many more primaries — absent ties between the outside group and the candidate that they assisted.

A look at the personnel of many of the groups that aided a single candidate in 2014 confirms such suspicions. Many of the groups' leaders previously worked for the candidate that their groups aided or had other close connections to the candidate. Notably, some multi-candidate groups may have ties to candidates that belie their independence, but they are not captured in this report's data.

Meanwhile, among outside electioneering groups that devoted their resources to aiding more than one candidate, this report identifies eight that appeared to be closely aligned with the missions of the Democratic or Republican parties. The groups categorized in this report as "party-aligned" demonstrated ties to a party beyond merely favoring candidates entirely from a single party, which could occur simply because a group's mission overlaps with a widely held position of one party's candidates.

The groups deemed in this report as party aligned appeared to exist for the overarching purpose of advancing a party. Many of these groups had mission statements of aiding a party or a specific party committee, such as the Democratic Congressional Campaign Committee. All of these groups were

¹ The \$100,000 cutoff was used to simplify data analysis. Groups spending \$100,000 or more accounted for 99 percent of all super PAC spending and of all outside spending, encompassing super PACs and 501(c) groups.

led by people who previously served as leadership figures for one of the parties, or had served as staffers for the national parties or for leadership figures in Congress.

Though relatively few in number, the party-aligned groups accounted for nearly 31 percent of spending among electioneering groups permitted to accept unlimited contributions in the 2014 cycle. Single-candidate and party-aligned groups combined to account for 45.2 percent of spending by unrestricted outside groups in 2014. [See Table 2] [Note: The listing of all single-candidate groups in Table 2 includes five groups registered under Section 501(c) of the tax code, as well as those categorized as super PACs.]

Table 2: A Comparison of Spending by Single-Candidate and Party-Aligned Groups vs. Others in 2014 Elections

	Number of Groups	Percentage of Groups	Spending by Unregulated Groups	Percentage of Money Spent
All Single-Candidate Groups	66	34.7%	\$71,293,806	14.2%
All Party-Aligned Groups	8	4.2%	\$155,107,441	30.9%
Subtotal: Single-Candidate and Party-Aligned Groups Total	74	39.0%	\$226,401,247	45.2%
Groups That Are Neither Single-Candidate Nor Party-Aligned	124	65.3%	\$274,841,396	54.8%
Total: Unregulated Groups	190	100.0%	\$501,242,643	100.0%

Source: Public Citizen analysis of data from the Center for Responsive Politics (www.opensecrets.org). Data reported by Center for Responsive Politics on Dec. 29, 2014.

Conclusions that many outside groups are not truly independent of the candidates they assist would surprise few observers of electoral campaigns. Pundits routinely factor candidates' dedicated super PACs into their assessments of the candidates' overall campaign war chests.

But incontrovertible evidence that many outside groups are not truly independent of the candidates they aid would virtually destroy any intellectual defense of the Supreme Court's landmark 2010 decision in the case of *Citizens United v. Federal Election Commission*, which opened the door for outside entities to use unlimited contributions to influence elections.²

² *Citizens United v. Federal Election Commission*, 130 S.Ct. 876 (2010), <http://1.usa.gov/9Hn7y5>. [Hereinafter *Citizens United*] *Citizens United* outlawed restrictions on the ability of outside entities, including corporations and unions, to spend money from their treasuries to make independent expenditures (expenditures expressly intended to influence the outcomes of elections). A subsequent decision by the U.S. Court of Appeals for the District of Columbia determined that limitations on the size of contributions to groups engaging in independent expenditures could not be justified in the wake of *Citizens United*. See *SpeechNow.org v. Federal Election Commission*, 599 F.3d 686 (D.C. Cir. 2010), <http://1.usa.gov/sPC9tI>. The Federal Election Commission then acquiesced by ruling that independent expenditure groups may accept unlimited contributions from

In *Citizens United*, the court relied on the assumption that outside spending entities are inherently independent of the candidates or parties they aim to assist. Further, the court presumed that independent expenditures do not pose nearly as significant of a risk of causing corruption as do a direct contributions to a candidate. The risk of corruption is the basis upon which the court had previously allowed most campaign finance restrictions. In *Citizens United*, the court deemed regulation of outside groups' electioneering activities to be an unjustified infringement of First Amendment rights.

"Limits on independent expenditures have a chilling effect extending well beyond the Government's interest in preventing *quid pro quo* corruption,"³ the court wrote in *Citizens United*. "We now conclude that independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption."⁴

In its *Citizens United* decision, the court did not question the legality of limits on contributions to candidates or parties. It even left the door open to revisiting whether Congress's permission to regulate electioneering expenditures by outside entities ("independent expenditures") should subsequently be restored if evidence were to show that they posed a risk of causing corruption. In so doing, the court endorsed the corruption rationale it has used in the past to restrict the size of direct contributions.

"If elected officials succumb to improper influences from independent expenditures; if they surrender their best judgment; and if they put expediency before principle, then surely there is cause for concern," the court wrote in *Citizens United*.⁵ "We must give weight to attempts by Congress to seek to dispel either the appearance or the reality of these influences."⁶

This report illustrates that many of the so-called independent groups that *Citizens United* has given rise to are essentially extensions of the candidates and parties that they spend on behalf of. As such, contributions to these groups are much like contributions directly to candidates and party committees, which were limited at \$2,600 to a candidate per election and \$74,600 to all national committees in 2014.⁷ (The "cromnibus" funding bill that was signed in mid-December 2014 raises

corporations and unions, as well as individuals. See Federal Election Commission, Advisory Opinion 2010-11 (July 22, 2010), <http://bit.ly/1K6LUX>. The cumulative effect of these decisions was to permit outside entities to use unlimited contributions from corporations, unions and individuals to influence the outcomes of elections. Entities that acknowledge a primary purpose of using unlimited contributions to influence elections are known as independent expenditure-only committees, or super PACs.

³ *Citizens United v. Federal Election Commission*, 130 S.Ct. 876 (2010), at 908.

⁴ *Id.*, at 909.

⁵ *Id.*, at 911.

⁶ *Id.*

⁷ See, *Individuals' Contribution Limits for 2013-2014*, CAPLIN & DRYSDALE (viewed on Jan. 2, 2015), <http://bit.ly/1typXDj>.

the amount that individuals may contribute to national party committees to \$1.5 million every two-year election cycle.⁸⁾

If one accepts the reasoning that an unlimited contribution to an outside group with ties to a candidate or party is much like an unlimited contribution to the candidate or party, he or she would find it virtually impossible to avoid reaching the conclusion that *Citizens United* has done what it did not purport to do: eviscerate the efficacy of laws restricting the size of direct contributions to candidates and parties.

Single-Candidate Groups

Most of the single-candidate groups identified in this report are registered as super PACs, meaning they can accept unlimited contributions and spend in unlimited amounts, but must disclose their donors. Five single-candidate groups identified in this report operated under Section 501(c)(4) or 501(c)(6) of the tax code, which are reserved for social welfare groups and business trade associations. These groups are not required to disclose their donors but are, under current IRS rules, prohibited from engaging primarily in electioneering activities.⁹

Among entities spending more than \$100,000 in the 2014 election cycle, 66 groups (60 super PACs and five 501(c) groups) devoted all of their spending to assisting single candidates. [See Table 3 for quantification of spending; Listings of the single-candidate super PACs and 501(c) groups and their expenditures are in Appendixes I and II.] These groups made up 35 percent of all unregulated outside groups spending more than \$100,000. [See Table 3]

Table 3: Spending by Single-Candidate and Non Single-Candidate Groups in 2014 Election Cycle

Description of Group	Number of Groups	Percentage of Groups	Amount Spent	Percentage of Money Spent
Single-candidate Super PACs	61	32.1%	\$58,591,915	11.7%
Single-candidate 501(c) Groups	5	2.6%	\$12,701,891	2.5%
Other unrestricted outside groups	124	65.3%	\$429,948,837	85.8%
Total	190	100.0%	\$501,242,643	100.0%

Source: Public Citizen analysis of data from the Center for Responsive Politics (www.opensecrets.org) and the Federal Election Commission. Data reported by Center for Responsive Politics on Dec. 29, 2014.

⁸ Nicholas Confessore, *G.O.P. Angst Over 2016 Led to Provision on Funding*, THE NEW YORK TIMES (Dec. 13, 2014), <http://nyti.ms/1Anf6ST>.

⁹ The statute authorizing groups that operate under Section 501(c)(4) of the tax code stipulates that such groups must be “operated *exclusively* for the promotion of social welfare.” [Emphasis added] See, 26 U.S. Code § 501(c)(4). Electioneering activities do not fall within the definition of activities in service of an organization’s “social welfare” function. In 1959, the IRS changed the regulations governing the law to stipulate that 501(c)(4) organizations must operate *primarily* in service of their social welfare function. [Emphasis added] See, e.g., Chris Van Hollen, *Democracy 21*, Campaign Legal Center, and Public Citizen Inc. vs. Internal Revenue Service and Department of the Treasury, U.S. District Court for the District of Columbia (Aug. 21, 2013), <http://wapo.st/1tHFVA>.

This conclusion adds to an already overwhelming body of evidence that many outside electioneering groups are not truly independent of the candidates or parties they seek to assist. Many of the principals or donors of single-candidate groups active this cycle had clear connections to the candidates themselves. Several of these groups are profiled below.

Put Alaska First – Mark Begich

Put Alaska First, a super PAC, made \$10.2 million in independent expenditures during the 2014 election cycle. All of these expenditures were made either to support incumbent Sen. Mark Begich (D-Alaska) or to oppose Begich's potential or actual Republican opponents in the general election. The vast majority of the super PAC's spending, \$9.8 million, was made in opposition to Dan Sullivan, who won the Republican nomination and, eventually, the general election.¹⁰

Put Alaska First was founded by Jim Lottsfeldt, a childhood friend of Begich who discussed forming Put Alaska First with Begich before doing so. "I went to [Begich] two years ago and I said, 'Hey, let's look at re-election,'" Lottsfeldt said. "All of this big money is gonna come, so, what I think I should do is start a super PAC."¹¹

Lottsfeldt had previously worked for Begich during Begich's successful 2006 campaign for mayor of Anchorage, Alaska.¹²

Shortly after election day 2014, with the outcome of Begich's contest against Sullivan still undecided, Lottsfeldt offered a window into Begich's plans for 2015. "He is already plotting," Lottsfeldt said. "I've spoken with him and he hasn't made up his mind, but if he doesn't prevail he's certainly considering his options in 2016."¹³ Lottsfeldt's insight into Begich's private thoughts was more evidence of his having personal connections to the candidate that the leaders of a truly independent super PAC would not.

Put Alaska First received \$10.1 million of its roughly \$10.5 million in contributions (96 percent) from the Senate Majority PAC, a super PAC with strong ties to then-Senate Majority Leader Harry Reid (D-Nevada).¹⁴

Kentuckians for Strong Leadership & Kentucky Opportunity Coalition – Mitch McConnell

Two groups with close ties to then-Senate Minority Leader Mitch McConnell together spent almost \$14 million to help McConnell win reelection in 2014.¹⁵

¹⁰ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

¹¹ Kayte Kaye, *This Super PAC Founded by Democratic Money Could Back a Republican in 2016: Senate Majority PAC Was Primary Funder of Put Alaska First*, ADAGE (Nov. 12, 2014), <http://bit.ly/1z0soJ7>.

¹² Kayte Kaye, *This Super PAC Founded by Democratic Money Could Back a Republican in 2016: Senate Majority PAC Was Primary Funder of Put Alaska First*, ADAGE (Nov. 12, 2014), <http://bit.ly/1z0soJ7>.

¹³ Emily Schultheis, *Losing Democrats Already Being Touted for 2016 Comebacks: Several losing Democratic Senators Swept up in the GOP Wave Are Considered Leading Prospects for 2016 Campaigns*, NATIONAL JOURNAL (Nov. 12, 2014), <http://bit.ly/1K0IB28>.

¹⁴ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

The super PAC Kentuckians for Strong Leadership devoted 100 percent of its \$6.4 million in independent expenditures during the midterm election cycle to oppose Alison Lundergan Grimes (D), the general election opponent of then-Senate Minority Leader Mitch McConnell (R-Ky.).¹⁶

Steven Law, who ran McConnell's first reelection campaign and later became McConnell's chief of staff, served on Kentuckians for Strong Leadership's board. Scott Jennings, an adviser to the group, said that Law "makes decisions for the organization, including how to expend funds."¹⁷

Although Law has not worked on McConnell's staff for nearly 20 years, *Politico* reported in 2014 that "Law is seen as McConnell's No. 1 political consultant."¹⁸

Jennings, the Kentuckians for Strong Leadership advisor, also worked as a spokesman for the Kentucky Opportunity Coalition, a 501(c) that made all \$7.6 million of its independent expenditures in opposition to Grimes.¹⁹ Jennings was a senior advisor to McConnell's 2008 reelection campaign and a political director for McConnell's 2002 effort.²⁰

Texans for a Conservative Majority – John Cornyn

All \$1.1 million in expenditures by Texans for a Conservative Majority were devoted to opposing Steve Stockman, opponent of Sen. John Cornyn (R-Texas) in the primaries.²¹

Texans for a Conservative Majority's founder Randy Cubriel worked for Cornyn when he served as attorney general of Texas, as an aide on Cornyn's 2002 U.S. Senate campaign and on his U.S. Senate staff.²²

Cubriel's wife, Beth, was a top aide on Cornyn's 2002 and 2008 U.S. Senate campaigns and worked for his Senate staff as state field director.²³

¹⁵ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

¹⁶ *Id.*

¹⁷ Paul Blumenthal, *Karl Rove's Network Lurks Behind Local Kentucky Groups Backing Mitch McConnell*, HUFFINGTON POST (March 1, 2014), <http://huff.to/1x1TFpB>.

¹⁸ Anna Palmer, *How McConnell World Works: A Tight Network Of Aides, Lobbyists and Old Friends Rule* (Nov. 17, 2014), <http://politi.co/1BgYbj8>.

¹⁹ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

²⁰ *The Arena*, *Scott Jennings*, POLITICO (viewed on Dec. 29, 2014), <http://politi.co/13HOizu>.

²¹ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.) *Also see*, Fredreka Schouten, *Super PACs Gear up for Individual Senate Battles*, USA TODAY (Jan. 3, 2014), <http://usat.ly/14bcGef>.

²² Todd J. Gillman, *Cornyn Allies Launch "Shady Stockman" Barrage with Bob Perry \$*, THE DALLAS MORNING NEWS (Dec. 17, 2013), <http://bit.ly/13R73RA>.

²³ *Id.*

Priorities for Iowa – Joni Ernst

Priorities for Iowa, a super PAC, made all of its \$1.2 million in independent expenditures in an effort to defeat Democrat Bruce Braley, the general election opponent of U.S. Senate candidate Joni Ernst (R-Iowa).²⁴

The group was created by Sara Craig, a consultant for Redwave Communications. Previously Craig and Redwave founder David Kochel created a 501(c) group that was also named Priorities for Iowa. The 501(c) group ran ads bashing Braley. In his capacity at Redwave, Kochel subsequently became a paid consultant to Ernst's campaign.²⁵

In October, Craig said that Kochel was not involved in any way with the Priorities for Iowa super PAC. "Redwave implemented a firewall policy before Priorities for Iowa Political Fund was even formed, walling off personnel so that we can service our clients within the confines of established law," Craig said.²⁶

Regardless of the accuracy of Craig's statements, anybody concerned about the integrity of campaign finance laws should find cold consolation in relying on "firewalls" that business partners construct on their own accord within the spaces of a political consulting firms.

Alaska's Energy / America's Values – Dan Sullivan

Alaska's Energy / America's Values made all of its \$896,427 in independent expenditures in support of Dan Sullivan's successful Senate campaign.²⁷ The super PAC was created by Art Hackney, an Alaskan Republican political operative.

Alaska's Energy / America's Values took in \$375,000 from Sullivan's family members in contributions far larger than they would have been permitted to give directly to Sullivan.²⁸

"I have known Dan since he was a young Marine and encouraged him to run for the Senate, but have had no contact with him since he filed for office," Hackney said. "Dan played no role that I'm aware of in his family members' decision to contribute to our PAC. I asked his brother directly to help raise money for AE/AV."²⁹

²⁴ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

²⁵ Matea Gold, *New Pro-Ernst Super PAC Run Out of Firm of Joni Ernst Strategist*, THE WASHINGTON POST (Oct. 7, 2014), <http://wapo.st/1vEQkZ8>.

²⁶ Matea Gold, *New Pro-Ernst Super PAC Run Out of Firm of Joni Ernst Strategist*, THE WASHINGTON POST (Oct. 7, 2014), <http://wapo.st/1vEQkZ8>.

²⁷ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

²⁸ *Id.*

²⁹ Paul Blumenthal, *Super PACs Raise Money From Family and Friends of the Candidates They Support*, THE HUFFINGTON POST (April 17, 2014), <http://huff.to/1HZylwS>.

Georgians Together – Michelle Nunn

All of Georgians Together's \$549,999 in independent expenditures were made to boost the U.S. Senate candidacy of Michelle Nunn (D-Ga.).³⁰ The super PAC was created by Keith Mason, whose ties to the Nunn family stretch back decades.³¹ In the 1970s, Mason served as chief counsel and legislative director to Nunn's father, former U.S. Sen. Sam Nunn (D-Ga.).³²

More recently, Mason was a board member at Hands On Atlanta, a nonprofit that was run by Michelle Nunn. Mason works at the McKenna, Long & Aldridge law firm, which also employed Nunn's campaign chairman, Gordon Giffin.³³

Committee to Elect an Independent Senate – Greg Orman

The Committee to Elect an Independent Senate, a super PAC, made all of its \$3.9 million in independent expenditures in support of Greg Orman's unsuccessful U.S. Senate bid against Republican Sen. Pat Roberts (R-Kan.).³⁴

The group was founded by one of Orman's friends, tech entrepreneur Thomas Layton. Orman and Layton had previously co-founded a nonprofit called the Common Sense Coalition.³⁵

While Orman ran as an independent, political observers speculated that he would caucus with the Democrats if he won. The Committee to Elect an Independent Senate received significant support from two super PACs closely aligned with the national Democratic Party: Senate Majority PAC (\$1.3 million) and Patriot Majority USA (\$500,000).³⁶

Citizens for Conservative Leadership – Bill Cassidy

Citizens for Conservative Leadership made all of its \$119,000 in independent expenditures in support of Rep. Bill Cassidy (R-La.) in his successful campaign for the U.S. Senate.³⁷ The super PAC was led by Cassidy's former chief of staff, Josh Robinson.³⁸

The group also employed two other people with close ties to Cassidy. In March 2013, as Cassidy was plotting a bid for Senate, he hired consultants Jason Hebert and Scott Hobbs.³⁹ Cassidy's congressional campaign and subsequent Senate committee paid their company, The Political Firm,

³⁰ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

³¹ Cameron Joseph, *Pro-Nunn Super-PAC Launches in Georgia*, THE HILL (Feb. 25, 2014), <http://bit.ly/11vqixz>.

³² *Gordon D. Giffin*, MCKENNA LONG & ALDRIDGE (viewed on Dec. 30, 2014), <http://bit.ly/1HZyNR3>.

³³ Cameron Joseph, *Pro-Nunn Super-PAC Launches in Georgia*, THE HILL (Feb. 25, 2014), <http://bit.ly/11vqixz>.

³⁴ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

³⁵ Kenneth P. Vogel and Tarini Parti, *Billionaires for Greg Orman*, POLITICO, (Oct. 9, 2014), <http://politi.co/1Blkblt>.

³⁶ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

³⁷ *Id.*

³⁸ Leslie Turk, *New PACs Surface in Senate Race*, THE IND (Aug. 25, 2014), <http://bit.ly/1vqt0gC>.

³⁹ Alexandra Jaffe, *Rep. Cassidy's Senate Waiting Game May Boost Landrieu's Fortunes in Louisiana*, THE HILL (March 9, 2014), <http://bit.ly/1vqt0gC>.

roughly \$19,444 for political strategy consulting between April and August of 2013, according to reports filed with the Federal Election Commission.⁴⁰ By April 2014, Hebert and Hobbs were working as consultants for Citizens for Conservative Leadership, with Hobbs listed as its spokesman and Hebert handling media production.⁴¹ The super PAC paid their firm \$44,125 between April and November of 2014, according to Federal Election Commission records.⁴²

A Multi-Candidate Group With Close Ties to One Candidate

If a group spends on more than one candidate, that does not necessarily mean it is independent of all the candidates its supports. Take, for example, Special Operations for America, a super PAC ostensibly devoted to representing special operations forces members politically.

The group was founded by Ryan Zinke in June 2012 and it paid nearly \$40,000 to Zinke's company, Continental Divide International, between December 2012 and August 2013, according to Federal Election Commission records.⁴³

Zinke stepped down from the super PAC in early October 2013. Within a week, the super PAC began promoting Zinke on its Facebook page for the Republican nomination for Montana's at-large congressional seat.⁴⁴

Special Operation for America eventually spent more than \$190,000 to support Zinke's candidacy and oppose his primary opponent.⁴⁵ While the group supported a number of candidates, it spent the most on Zinke's race.⁴⁶ Special Operation for America's treasurer was Scott Hommel.⁴⁷

Zinke won election to Congress in November. He promptly hired Hommel to be his chief of staff.⁴⁸

The news that Zinke had hired Hommel to run his D.C. office led NBC "Meet the Press" host Chuck Todd to tweet, "Can we stop claiming super PACs and campaigns aren't coordinating?"⁴⁹

⁴⁰ *Bill Cassidy for Congress Details for Committee ID: C00451807* and *Bill Cassidy for US Senate Details for Committee ID: C00543983*, FEDERAL ELECTION COMMISSION (viewed on Jan. 8. 2015).

⁴¹ Leslie Turk, *New PACs Surface in Senate Race*, THE IND (Aug. 25, 2014), <http://bit.ly/1FufN1j>.

⁴² *Citizens for Conservative Leadership Details for Committee ID: C00515346*, FEDERAL ELECTION COMMISSION (viewed on Jan. 8. 2015).

⁴³ *Special Operation for America Details for Committee ID: C00523241*, FEDERAL ELECTION COMMISSION (viewed on Jan. 12. 2015).

⁴⁴ Dan Pogreba, *Is Ryan Zinke's Sleazy Super PAC Just a Front Group for His House Race?*, INTELLIGENT DISCONTENT (Oct. 13, 2013), <http://bit.ly/1KDDILL>.

⁴⁵ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Jan. 12, 2015.)

⁴⁶ *Id.*

⁴⁷ Charles S. Johnson, *Democrats Blast Zinke's Pick of Former Super PAC Treasurer as Chief of Staff*, BILLINGS GAZETTE (Jan. 7, 2015), <http://bit.ly/17BLRRI>.

⁴⁸ *Id.*

⁴⁹ Twitter, @chucktodd, Chuck Todd (Jan. 7, 2015), <http://bit.ly/1KDFJrd>.

Groups With Close Ties to the National Political Parties

Following the 2012 election cycle, Public Citizen profiled a number of outside groups that spent significant sums in that election cycle and appeared by their statements of purpose and the makeup of their personnel to be working in the service of the official national party committees.⁵⁰ Many the committees we identified in 2012 remained active in 2014. Table 4 lists the groups with close ties to the parties that were active in 2014.

The determination that any given group is working in service of a party, as opposed to merely supporting candidates from the same party, is subjective. For the purposes of this report, we have chosen groups that are led by people who have close historical connections to the national parties or to leadership figures in the parties, or who have held leadership posts in the parties. Some of the groups have conveyed mission statements of aiding a party or a certain committee within a party, such as the Democratic Congressional Campaign Committee.

Table 4: Spending by Party-Aligned Outside Groups, 2014

Group	Tax Status	Total Spent
Senate Majority PAC	Super PAC	\$46,707,350
House Majority PAC	Super PAC	\$29,839,426
Crossroads GPS	501(c)	\$26,015,161
American Crossroads	Super PAC	\$22,247,121
Patriot Majority USA	Super PAC	\$10,652,298
Congressional Leadership Fund	Super PAC	\$9,090,274
American Action Network	501(c)	\$8,958,129
YG Network	501(c)	\$1,597,682
Total	--	\$155,107,441

Source: Public Citizen analysis of data provided by the Center for Responsive Politics (www.opensecrets.org). Data reported by Center for Responsive Politics on Dec. 29, 2014.

The existence of committees with close ties to the parties that can accept unlimited contributions undermines the soft-money ban that was implemented by the Bipartisan Campaign Reform Act (BCRA) of 2002. BCRA closed a loophole that was opened by a 1995 Federal Election Commission ruling that permitted national parties to accept unlimited funds from corporations, unions and individuals as long as the funds were not used to finance direct advocacy for a candidate.⁵¹

Several of the groups identified as having close ties to the parties in 2014 are profiled below.

⁵⁰ TAYLOR LINCOLN, PUBLIC CITIZEN, SUPERCONNECTED: OUTSIDE GROUPS' DEVOTION TO INDIVIDUAL CANDIDATES AND POLITICAL PARTIES DISPROVES THE SUPREME COURT'S KEY ASSUMPTION IN *CITIZENS UNITED* THAT UNREGULATED OUTSIDE SPENDERS WOULD BE 'INDEPENDENT' 39-49 (March 2013), <http://bit.ly/1Dc6MFg>.

⁵¹ *Id.*

Senate Majority PAC

Senate Majority PAC spent \$46.7 million to help Democratic candidates for the U.S. Senate in 2014.⁵²

The super PAC was founded with a mission to “protect and expand the Democratic majority in the Senate.”⁵³ maintains close connections to Senate Majority Leader Harry Reid (D-Nev.) and the official Democratic Party committees.⁵⁴ Its founder, Jim Jordan, is a former executive director of the Democratic Senatorial Campaign Committee (DSCC), the official party committee that supports Democratic candidates for the U.S. Senate. Several staff members, including Susan McCue and Rebecca Lambe, have close ties to Reid (McCue was formerly his chief of staff; Lambe was his chief political strategist).⁵⁵ J.B. Poersch, who was on the staff of the DSCC for three election cycles, helps guide strategy for Senate Majority PAC.⁵⁶

Many prominent Democratic officials have headlined fundraisers for Senate Majority PAC. In July 2014, President Barack Obama appeared at a fundraiser for the group.⁵⁷ Reid and Sen. Barbara Boxer (D-Calif.) also have attended fundraisers for the group.⁵⁸

House Majority PAC

House Majority PAC spent \$29.8 million to advance the prospects of Democratic U.S. House candidates in 2014.⁵⁹

The group was committed to “holding Republicans accountable and helping Democrats win seats in the House,” its website said.⁶⁰ Its founder and executive director, Alixandria Lapp, worked for the Democratic Congressional Campaign Committee (DCCC), the official party committee that supports Democratic candidates for the U.S. House of Representatives.⁶¹ In 2012, Lapp connected the efforts of House Majority PAC to the DCCC. “I do see House Majority PAC as a great complement to the DCCC,” she said. “We have set up House Majority PAC to become a permanent part of the Democratic infrastructure. It is not going away anytime soon.”⁶²

⁵² The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

⁵³ *Our Mission*, SENATE MAJORITY PAC (viewed on Jan. 2, 2014), <http://bit.ly/1AjOlh9>.

⁵⁴ Matea Gold, *Top Harry Reid Advisers Build Big-Money Firewall to Protect Senate Democrats*, WASHINGTON POST (September 16, 2014), <http://wapo.st/1t2Uaze>.

⁵⁵ *Players Guide 2014: Senate Majority PAC*, Factcheck.org (viewed October 6, 2014), <http://bit.ly/1vIy0jJ>.

⁵⁶ Matea Gold, *Top Harry Reid Advisers Build Big-Money Firewall to Protect Senate Democrats*, WASHINGTON POST (September 16, 2014), <http://wapo.st/1t2Uaze>.

⁵⁷ David Firestone, *President Obama’s Fundraising Scandal*, NEW YORK TIMES (July 23, 2014), <http://nyti.ms/1rRkg4B>.

⁵⁸ Burgess Everett and Tarini Parti, *Dems Give Big to Senate Majority PAC*, POLITICO (June 2, 2014), <http://politi.co/1xVsMV1>.

⁵⁹ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

⁶⁰ *House Majority PAC: About*, HOUSE MAJORITY PAC (viewed October 6, 2014), <http://bit.ly/1sZ7Tal>.

⁶¹ *50 Politicos to Watch, Political Operatives*, POLITICO (July 12, 2012), <http://politi.co/NkXZJa>.

⁶² *Id.*

Nicole Runge D’Ercole, head of fundraising for House Majority PAC in 2014, previously served as director of finance and marketing at the DCCC. “During [her time with the DCCC], D’Ercole developed strong relationships with members of the House Democratic leadership and members of the Democratic Caucus, including Leader Nancy Pelosi,” House Majority PAC’s website said.⁶³

House Majority PAC received fundraising help from many of the Democratic Party’s biggest contributors, and President Obama headlined two fundraisers for the group in 2014.⁶⁴

American Crossroads/Crossroads GPS

American Crossroads, a super PAC, and Crossroads GPS, a 501(c), combined to spend \$48.3 million to assist Republican candidates in 2014.

In 2010, American Crossroads was founded by Karl Rove and Ed Gillespie. Rove served as an advisor to President George W. Bush (R) from 2000 to 2007 and was the architect of his 2000 and 2004 presidential campaigns,⁶⁵ while Gillespie is a longtime Republican operative and lobbyist who served as chairman of the Republican National Committee from 2003 to 2005 and as a White House strategist during the second term of George W. Bush’s presidency.⁶⁶ Crossroads GPS, a 501(c)(4) nonprofit group, was formed later in 2010 to enable people to contribute without being publicly identified.⁶⁷

The groups’ president in 2014 was Steven Law, a former executive director of the National Republican Senatorial Committee, the official party committee supporting Republican candidates for the Senate.⁶⁸ (Law is mentioned above relating to his work for the pro-McConnell super PAC, Kentuckians for Strong Leadership.)

Carl Forti, American Crossroads’ political director in 2014, has extensive ties to the Republican Party establishment.⁶⁹ In 2006, Forti managed the \$82 million independent expenditure campaign of the National Republican Congressional Committee, the official party committee backing

⁶³ *House Majority PAC: Staff*, HOUSE MAJORITY PAC (viewed October 6, 2014), <http://bit.ly/1nWTOrP>.

⁶⁴ Colleen McCain Nelson, *Obama Ramps Up Fundraising Even on Vacation*, WALL STREET JOURNAL (August 8, 2014), <http://on.wsj.com/10Eupso>.

⁶⁵ *Karl Rove Biography*, ROVE.COM (viewed October 8, 2014), <http://bit.ly/1sf1EgF>.

⁶⁶ Michael A. Fletcher, *As Rove Departs, President Again Turns to Gillespie*, THE WASHINGTON POST (Aug. 16, 2007), <http://wapo.st/UgrblW>. See also *RNC Chairman: Democrats Increasingly ‘Liberal, Elitist, Angry,’* CNN (Dec. 4, 2003), <http://bit.ly/SckINl> and Shane Goldmacher, *Ed Gillespie, Co-Founder of Crossroads, Gets His Own Super PAC*, NATIONAL JOURNAL (February 12, 2014), <http://bit.ly/1oQU9r4>.

⁶⁷ *American Crossroads/Crossroads GPS*, FACTCHECK.ORG (viewed October 8, 2014), <http://bit.ly/1qhY8wc>.

⁶⁸ *American Crossroads: Leadership Team*, AMERICAN CROSSROADS (viewed October 6, 2014), <http://bit.ly/1s45cC4>. *Crossroads GPS: Leadership Team*, CROSSROADS GPS (viewed October 6, 2014), <http://bit.ly/1s2xDS5>.

⁶⁹ *American Crossroads: Leadership Team*, AMERICAN CROSSROADS (viewed October 6, 2014), <http://bit.ly/1s45cC4>.

Republican House candidates.⁷⁰ During the 2012 election cycle, Forti co-founded Restore Our Future,⁷¹ the super PAC that supported former Massachusetts Gov. Mitt Romney's (R) 2012 campaign for president.

In the 2012 election cycle, candidates the Crossroads groups sought to assist had a combined record of 9 wins and 21 losses.⁷²

Rove and others associated with Crossroads blamed poor candidate viability for Crossroads' poor winning percentage in 2012. "We raised \$324 million and I got sick and tired of spending money in races where the moderates and conservatives had gone at each other and made victory impossible," Rove said in December 2012.⁷³ In 2013, Crossroads' Law announced that he was forming a new group, the Conservative Victory Fund, with the blessing of Rove and the biggest donors in the Republican Party. The group was intended to cause the Republican Party to nominate more viable candidates.⁷⁴

"There is a broad concern about having blown a significant number of races because the wrong candidates were selected," Law told the *New York Times*. "We don't view ourselves as being in the incumbent protection business, but we want to pick the most conservative candidate who can win."⁷⁵

The Conservative Victory Project did not take hold, likely because non-establishment candidates were less successful in the 2014 Republican Primaries. The group reported receiving just \$20,000 in contributions.⁷⁶ But the willingness of Crossroads' officials to advocate influencing the selection of Republican candidates illustrates an interest in party affairs that goes beyond what a truly outside group would likely have. Involvement in party affairs by the group's principals distinguishes it as devoted to a party as an abiding mission.

⁷⁰ Andy Kroll, *Mitt Romney's \$12 Million Mystery Man: Meet Carl Forti, The Super-PAC Whiz Helping the GOP Front-Runner and Conservative Groups Rake in Piles of Dark Money*, MOTHER JONES (January-February 2012), <http://bit.ly/zLZNjc>.

⁷¹ *Id.*

⁷² Michael Beckel, *Rove-Affiliated Groups Spend \$175 Million, Lose 21 of 30 Races*, THE CENTER FOR PUBLIC INTEGRITY (Nov. 9, 2012), <http://bit.ly/1D0oUo7>.

⁷³ Karl Rove Complains in Speech About His "Volunteer Fundraising," POLITICAL GATES (Dec. 1, 2012), <http://bit.ly/14iFmls>.

⁷⁴ Jeff Zeleny, *Top Donors to Republicans Seek More Say in Senate Races*, THE NEW YORK TIMES (Feb. 2, 2013), <http://nyti.ms/1tHEHWf>.

⁷⁵ *Id.*

⁷⁶ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

American Action Network

The American Action Network, 501(c)(4) group, spent \$9 million in 2014 to aid Republican candidates.⁷⁷

The group has extensive ties to the Republican establishment. The group was founded in 2010 by former Sen. Norm Coleman (R-Minn.) and Fred Malek, a former official in the Nixon administration and longtime Republican fundraiser.⁷⁸ Its president, Brian Walsh, is a former political director for the National Republican Congressional Committee.⁷⁹ Walsh succeeded Rob Collins, a former top aide to former House Majority Leader Eric Cantor. Its board includes former Rep. and National Republican Congressional Committee Chairman Tom Reynolds (R-N.Y.) and former Rep. Vin Weber (R-Minn.).⁸⁰

YG Network

The YG Network, a 501(c)(4) group, spent \$1.6 million in 2014 to assist Republican candidates.⁸¹

The YG Network and the YG Action Fund, a super PAC, were created in 2011 to “build off the Young Guns movement” of then-House Majority Leader Cantor (R-Va.), then-House Majority Whip Kevin McCarthy (R-Calif.) and House Budget Committee Chairman (and eventual vice presidential nominee) Paul Ryan (R-Wis.).⁸²

The YG Network is a 501(c)(4) group that has been closely connected to Cantor.⁸³ YG Network senior advisor John Murray is a former deputy chief of staff for Cantor.⁸⁴ April Ponnuru, who served as the group’s policy director in 2014, is a former deputy chief to Senate Republican Conference Vice Chairman Roy Blunt (R-Mo). She also served as a senior policy advisor to Blunt when he served as the House Majority Whip.⁸⁵ Other staffers for YG Network have ties to the Republican National Committee and the National Republican Senatorial Committee.⁸⁶

Although Cantor lost in the primaries in his 2014 reelection bid, the group continued to make independent expenditures, but at a far lower rate than in 2012, when it spent \$4.7 million.

⁷⁷ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

⁷⁸ *American Action Network / American Action Forum*, FACT CHECK.ORG (Sept. 18, 2011), <http://bit.ly/Lzvjl>.

⁷⁹ Brian Walsh, AMERICAN ACTION NETWORK (viewed October 8, 2014), <http://bit.ly/10QpVir>.

⁸⁰ *American Action Network Board*, AMERICAN ACTION NETWORK (viewed October 8, 2014), <http://bit.ly/1vQUCiV>.

⁸¹ The Center for Responsive Politics (www.opensecrets.org). (Data viewed on Dec. 29, 2014.)

⁸² YG Action, *About YG* (Timeline) (viewed on Nov. 20, 2012), <http://bit.ly/SPgFQI>.

⁸³ Brandon Conrads, *YG Network has a Big Haul, and Pays a Big Salary*, CENTER FOR RESPONSIVE POLITICS (November 21, 2013), <http://bit.ly/1qikn55>.

⁸⁴ YG Action, *About YG* (Timeline) (viewed on Nov. 20, 2012), <http://bit.ly/SPgFQI>.

⁸⁵ *YG Network About Us*, YG NETWORK (viewed October 8, 2014), <http://bit.ly/1vVFHlj>.

⁸⁶ *Id.*

Conclusion

The facts laid out in this report demonstrate what most political observers unquestionably accept: many outside groups are not truly independent of the candidates or parties they assist. This conclusion renders void a foundational assumption used by the Supreme Court in crafting its decision in *Citizens United*.

Even some supporters of the *Citizens United* decision recognize that the existence of ties between outside groups and candidates poses major problems. “If there’s no separation between the campaigns and outside groups, then the logic of *Citizens United* really falls apart,” election law lawyer Robert Kelner told the *Washington Post* in the run-up to the 2014 general election.⁸⁷

Kelner, who said he is a “believer” in *Citizens United*, said he favors “clear rules on coordination” to ensure separation between campaigns and outside groups.

Other defenders of the decision, such as James Bopp, a campaign finance lawyer who advised the plaintiff in the *Citizens United* case, also have blamed communications rules in an effort to salvage the viability of the *Citizens United* framework. “If [lack of independence] is your complaint, it has nothing to do with super PACs, it has to do with the coordinated spending regulations that have applied for decades, so talk about those,” Bopp said.⁸⁸

However, it is dubious that coordination regulations could plausibly ensure the independence of outside groups.

Any sincere attempt to create a strong enough coordination law would probably pose far greater constitutional problems than those that the *Citizens United* decision purported to remedy. For instance, candidates can simply post their plans on their websites, making them easily accessible to outside groups that seek to support them, presumably including groups that were formed with the candidates’ blessing. Republican election lawyer and former Federal Election Commission commissioner Michael Toner told the *Washington Post* that preventing that practice would be impossible “unless you want to make it illegal to use information in the public sphere ... And I don’t know how that would be manageable or constitutional.”⁸⁹

The existence of so many outside groups with ties to candidates coupled with the absence of a plausible way to prohibiting such ties renders *Citizens United* a failed and unsalvageable experiment.

⁸⁷ Matea Gold, *Election 2014: A New Level of Collaboration Between Candidates and Big-Money Allies*, THE WASHINGTON POST (Nov. 3, 2014), <http://wapo.st/1tHFVAE>.

⁸⁸ *Campaign Finance and the Citizens United Decision*, American University, Washington College of Law, starting at 22:30 (Nov. 14, 2012)

⁸⁹ Matea Gold, *Election 2014: A New Level of Collaboration Between Candidates and Big-Money Allies*, THE WASHINGTON POST (Nov. 3, 2014), <http://wapo.st/1tHFVAE>.

Appendix I

Single-Candidate Super PACs Active the 2014 Elections

Group	Candidate Supported	Total Spent
Put Alaska First PAC	Mark Begich (D-Alaska)	\$10,157,335
Kentuckians for Strong Leadership	Mitch McConnell (R-Ky.)	\$6,409,614
Committee to Elect an Independent Senate	Greg Orman (I-Kan.)	\$3,891,371
B-PAC	Terri Lynn Land (R-Mich.)	\$2,580,939
Citizens for a Working America	David Perdue (R-Ga.)	\$2,159,128
Alaska SalmonPAC	Mark Begich (D-Alaska)	\$2,010,544
Mississippi Conservatives	Thad Cochran (R-Miss.)	\$1,838,245
Virginia Progress PAC	Mark Warner (D-Va.)	\$1,827,242
Arkansas Horizon	Tom Cotton (R-Ark.)	\$1,805,900
Alliance for A Better Minnesota	Al Franken (D-Minn.)	\$1,637,157
Values Are Vital	Paige Kreegel (R-Fla.)	\$1,416,772
Americans For Common Sense	George Demos (R-N.Y.)	\$1,342,574
Americans for Progressive Action	Gabriel Gomez (R-Mass.)	\$1,326,826
Priorities for Iowa	Joni Ernst (R-Iowa)	\$1,203,776
Texans for a Conservative Majority	John Cornyn (R-Texas)	\$1,117,834
CE Action Cmte	Ed Markey (D-Mass.)	\$1,077,013
Government Integrity Fund Action Network	Tom Cotton (R-Ark.)	\$1,047,880
Alaska's Energy / America's Values	Dan Sullivan (R-Alaska)	\$896,427
Kansans Support Problem Solvers	Greg Orman (I-Kan.)	\$854,831
Independent Leadership For New Hampshire	Scott Brown (R-N.H.)	\$838,440
Southern Conservatives Fund	Jack Kingston (R-Ga.)	\$823,724
American Heartland PAC	Joni Ernst (R-Iowa)	\$701,502
Liberty & Leadership Fund	Lizbeth Benacquisto (R-Fla.)	\$692,196
Heartland Project	Dick Durbin (D-Ill.)	\$690,250
Grow NC Strong	Thom Tillis (R-N.C.)	\$662,933
Californians For Innovation	Ro Khanna (D-Calif.)	\$661,579
Georgians Together	Michelle Nunn (D-Ga.)	\$549,999
Mobilization Project	Cory Booker (D-N.J.)	\$532,445
New Republican PAC	Monica Wehby (R-Ore.)	\$507,076
American Alliance	Elan Carr (R-Calif.)	\$506,407
USA Super PAC	Pete Ricketts (R-Neb.)	\$450,000
We Are Kentucky	Alison Lundergan Grimes (D-Ky.)	\$440,666
Character Counts PAC	Weston Wamp (R-Tenn.)	\$389,484
Florida Conservatives United	Jake Rush (R-Fla.)	\$382,757
Campaign for Jobs And Opportunity	John Moolenaar (R-Mich.)	\$361,347
Building a Better PA	Brendan Boyle (D-Pa.)	\$353,568
Freedom Pioneers Action Network	Shane Osborn (R-Neb.)	\$345,289
CounterPAC	Andrew Romanoff (D-Colo.)	\$333,815
Keep Conservatives United	Philip Berger (R-N.C.)	\$269,719
Our America Fund	Jim Oberweis (R-Ill.)	\$267,851
Kansans for Responsible Government	Todd Tiahrt (R-Kan.)	\$266,154
Georgia One PAC	David Perdue (R-Ga.)	\$216,238
US Jobs Council	Lee Zeldin (R-N.Y.)	\$215,500
A Bright Future	Paige Kreegel (R-Fla.)	\$213,500
Freedom Frontier Action Network	Alex Mooney (R-Va.)	\$201,988
Space PAC	Gabriel Rothblatt (D-Fla.)	\$198,692

Group	Candidate Supported	Total Spent
Victory California	Jeff Gorell (R-Calif.)	\$163,334
Pure PAC	Terri Lynn Land (R-Mich.)	\$151,503
Ninety Nine Percent	Stephen Lynch (D-Mass.)	\$149,855
Protecting Choice in California	Julia Brownley (D-Calif.)	\$141,380
New Hampshire PAC to Save America	Jim Rubens (R-N.H.)	\$127,529
Visionary Leaders Fund	Pat Roberts (R-Kan.)	\$126,000
If He Votes Like That in Salem	Jason Conger (R-Ore.)	\$124,915
Working for Us PAC	Vanila Singh (R-Calif.)	\$123,354
Democracy Values Fund	Mike Turner (R-Okla.)	\$121,834
Forward Massachusetts	Seth Moulton (D-Mass.)	\$121,155
We Can Do Better PAC	Ed Gillespie (R-Va.)	\$120,550
Citizens for Conservative Leadership	Bill Cassidy (R-La.)	\$118,929
Many True Conservatives	Gordon Howie (I-S.D.)	\$115,916
Responsible Leadership For America	Kirk Jorgenson (R-Calif.)	\$106,634
Our Voices Matter	Erin McClelland (D-Pa.)	\$104,500
Total	-	\$58,591,915

Source: Public Citizen analysis of data provided by the Center for Responsive Politics (www.opensecrets.org).
Data reported by Center for Responsive Politics on Dec. 29, 2014.

Appendix II

Single-Candidate 501(c) Groups Active the 2014 Elections

Group	Candidate Supported	Total Spent
Kentucky Opportunity Coalition	Mitch McConnell (R-Ky.)	\$7,573,752
Carolina Rising	Thom Tillis (R-N.C.)	\$3,279,626
Oklahomans for a Conservative Future	T.W. Shannon (R-Okla.)	\$1,296,459
Alliance for a Free Society	Pat Roberts (R-Kan.)	\$450,019
Americans for a Conservative Direction	Renee Ellmers (R-N.C.)	\$102,035
Total	-	\$12,701,891

Source: Public Citizen analysis of data provided by the Center for Responsive Politics (www.opensecrets.org).
Data reported by Center for Responsive Politics on Dec. 29, 2014.