

Shorenstein Center on Media, Politics and Public Policy

Discussion Paper Series

#D-83, February 2014

The Campaign Casino

Elections Have Become a Get-Rich-Quick Scheme, and the Press Is Missing the Story

By Lee Aitken
Joan Shorenstein Fellow, Fall 2013
Formerly, Thomson Reuters

Research by Tharuni Jayaraman at Harvard's Kennedy School and
Robert Maguire at the Center for Responsive Politics (OpenSecrets.org).



HARVARD Kennedy School

SHORENSTEIN CENTER
on Media, Politics and Public Policy

Licensed under a [Creative Commons Attribution-NoDerivs 3.0 Unported License](https://creativecommons.org/licenses/by-nd/3.0/).

The 2012 campaign cycle was “the greatest windfall” for political operatives in American history, Democratic consultant Hank Sheinkopf has said—a \$6 billion spending frenzy unmatched in U.S. politics.¹

So who pocketed all that cash? Most of it went for ads on TV, radio and the Internet, of course; media buys are the biggest expense in any election. But Kantar Media’s Campaign Media Analysis Group, which tracks broadcast spending, puts the 2012 total for all media at roughly \$5 billion, which left another one billion at the disposal of the “campaign industrial complex”—that standing army of consultants, pollsters, mailers, data gurus and field organizers.²

Did this torrent of money—raised and spent under the new rules of the Supreme Court’s *Citizens United* decision—make anyone rich? Did it create new financial incentives that changed the way the game is played or altered the political discourse? Has it, as some argue, bankrolled the polarization of America?

These legitimate questions are difficult to answer under current disclosure laws. And the U.S. press has been oddly complacent about that fact, continuing a tradition that puts the financial gains of political operatives—who are great sources and valued customers of the big media companies—off limits. The presumption seems to be that these men and women are motivated by ideology and personal loyalty, their payoff, if any, just a happy coincidence and a private matter.

But this attitude is woefully out of date now that what *Bloomberg Businessweek* called “a Cayman Islands–style web of nonprofit front groups and shell companies” is being used not only to shield donors but also to obscure the self-enrichment of the political class.³ When a consultant can earn millions of dollars in a single election cycle by moving nimbly between the campaigns, the independent spending groups and the vendors that get their business, it’s time to revive the Watergate-era mantra, “follow the money.”

The new era of campaign finance is a “real crisis for American journalism,” *Washington Post* associate editor Robert Kaiser told an audience at Harvard Law School in September, 2013, “and we have not risen to the occasion.”

TRANSPARENCY FAIL

In their 2010 *Citizens United* ruling, the justices maintained that full disclosure of campaign finance activity would be an adequate safeguard against the ill effects of unfettered spending. But “the transparency the Supreme Court relied upon to justify this new framework has been sorely lacking,” according to Center for Responsive Politics executive director Sheila Krumholz.⁴ Three years ago, the Federal Election Commission (FEC) vowed to update its rules in light of the court’s decision, but, mired in gridlock, it has yet to do so. At the Internal Revenue Service (IRS), clumsy efforts to monitor the proliferation of new independent expenditure groups foundered amid partisan sniping. Finally, in November, 2013, the agency proposed new rules for the 501(c)(4) groups that spent more than \$300 million in 2012, but those will be hotly debated before any changes are made.⁵

As they now stand, both the FEC and the IRS disclosure rules are weak, lopsided and poorly enforced. For donors, at least, they attempt to track contributions all the way back to the person who writes the check, even if the trail is sometimes lost in a thicket of so-called “dark money”—that is, transfers among groups that need not identify their donors.⁶ On the spending side, however, reporting requirements stop far short of a personal bank account. Rather, they have allowed hundreds of millions of dollars to disappear into quickly set up shell corporations and vaguely named tax-exempt groups with no final accounting of services rendered or profits made.

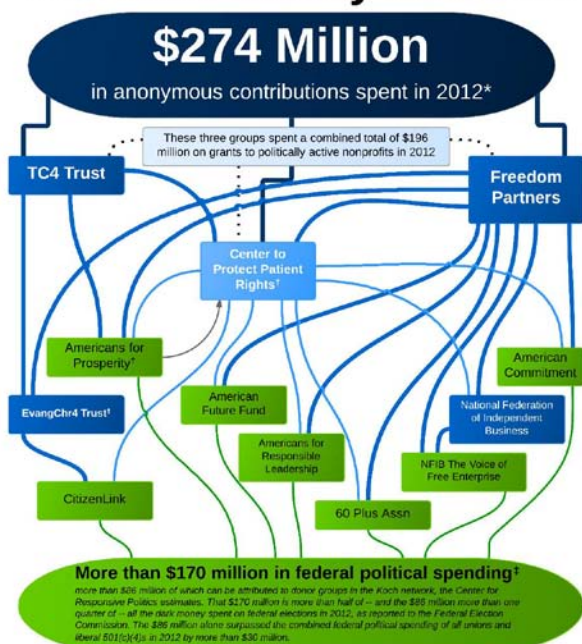
One of the few legal prosecutions, so far, of a 2012 campaign violation exposed the enormous potential for both self-enrichment and sleights of hand in the current system. The California Fair Political Practices Commission traced \$29 million raised to run ads about state ballot measures through a daisy chain of dark money, 501(c)(4) tax-exempt groups.⁷ The linchpin for this maneuver was the Center to Protect Patient Rights (CPPR), which a former Capitol Hill aide named Sean Noble operates out of a post office box in Arizona.⁸ The organization’s sole function appears to be accepting grants and making grants for a network of conservative nonprofits with ties to the Koch brothers.

In this case, the \$29 million from California donors who wanted to remain anonymous was steered to the Virginia-based Americans for Job Security, which passed \$24.5 million to CPPR. Noble then made two grants: \$18 million to another 501(c)(4) he’d set up in Arizona, Americans for

Responsible Leadership (ARL), which passed on \$11 million to the Small Business Action Committee (SBAC) in California, and \$7 million to Iowa-based American Future Fund, which gave \$4 million to the California Future Fund.⁹

California officials called this “money laundering”¹⁰ and eventually levied the state’s largest-ever campaign fine—\$ 1 million—against CPPR and ARL. They also demanded that SBAC and California Future Fund pay \$15 million to the state treasury, although the latter group has already closed up shop.¹¹

The Dark Money Machine



* For the sake of space, not all recipients are shown below in this chart. This is only a selection of the groups receiving the most money or with the closest links to the Kochs.
 † Some or all of the money granted to these groups was given through a wholly owned “disregarded entity” that goes by a different name and is, thus, harder to track.
 ‡ Does not include political spending made outside of FEC reporting windows or political spending in judicial and legislative elections or on ballot initiatives at the state level.

The settlement did not dispute the claim that these violations were “inadvertent.”¹² Nevertheless, Ann Ravel, the outgoing head of the commission, warned, “This is a nationwide issue. These groups exploit loopholes in the law to undermine the clear purpose of the law, to give essential information to the public.”¹³ (In October, 2013, Ravel became an FEC commissioner.)¹⁴

Curiously, none of the mainstream media stories on this settlement bothered to note that Noble, as the unsalaried president of CPPR, steered nearly \$10 million in fees and expenses to his private consulting firms in 2011, according to the tax return that was publicly available for that year. Since then, CPPR’s most recent IRS report, filed at the last possible moment in November 2013, has revealed that the center paid out about \$24 million in fees and expenses to Noble’s private firms in 2012.¹⁵ Yet the fact that Noble’s political activity is also a very lucrative personal business is arguably “essential information” for both voters and donors.

“Are political consultants immune from external scrutiny simply because their hearts are pure or their candidates hold the right positions on the issues?” Walter Shapiro asked in *Salon* in 2007, well before the Supreme Court let campaign spending completely off the leash.¹⁶ Similar logic was rejected for organizations such the United Way and the Red Cross after a series of self-enrichment scandals in the early 90s; traditional U.S. charities are now required to itemize salaries, perks and expenses.¹⁷ It’s possible that Noble’s companies gave good value for \$10 million in 2011 and \$24 million in 2012, but he’d be required to prove it if he’d been at one of those charities.¹⁸

And if he worked directly for a campaign, there would be some accountability as well. In a candidate’s organization, “at least you have campaign managers and others who keep a handle on spending and fees,” said Mark McKinnon, who was a strategist for George W. Bush in 2000.¹⁹ In the new independent expenditure groups, “you basically have just a few people getting together to check the box on legal structure, and then they

basically just divide up the money.” And, he added, “how you track the actual dollars will be very difficult if not impossible. That’s the ugly beauty of the scheme.”

The California fundraisers were not happy that less than half their money made it back to the state—or that, as soon as the investigation was launched, Noble wrote a letter to the state commission, laying out his version of the transfers, which eventually led to a settlement. “Hell, yeah, I’m pissed,” one of the fundraisers told investigators and later remarked, “I think that he panicked to prevent your agency from opening up his books....”²⁰

McKinnon, meanwhile, has expressed the dismay of many old-school campaign consultants over the profligacy of the new independent groups. But the fact is this old guard developed the basic practices that have transformed politics into a potential get-rich-quick scheme: shell corporations that can come and go in a single campaign cycle, effectively masking commissions and expenses, and what are called “integrated businesses”—that is, private firms set up by the candidate’s advisors to do nuts and bolts campaign work, a legal form of self-dealing that keeps everything in the extended family.

HOW DID WE GET HERE?

The cost of campaigning rose along with the complexity of the enterprise, from door knocking and yard signs to broadcast ads, polling and direct mail. The 1974 amendments to The Federal Election Campaign Act²¹ sought to slow this rise and reduce the influence of big donors by establishing limits on both raising and spending money, although the spending limits were struck down by the Supreme Court in 1976.²² A program of public financing stemmed the tide for a few decades, but over time, as campaign finance expert Anthony Corrado told *The New York Times* in 2012, “As a result of judicial decisions, ineffective enforcement of the law, and

innovative strategies developed by the entrepreneurial political actors, the promise of reform has largely been dashed.”²³

By 1997, after President Clinton won reelection, *The Washington Post* was decrying the “audacity” of both Democrats and Republicans for “promising to abide by old rules while concocting new ways to evade them.”²⁴ The arms race was truly on, with both parties devising novel methods to raise and spend money through party structures and issue-advocacy organizations. And no matter how much cash came in, there were always operatives eager to spend it, the one cardinal sin of electoral politics being to leave money on the table.

Around this time the muttering began that campaign advisors such as Dick Morris were getting rich from the traditional 15 percent commission on ad buys.²⁵ According to the *Post* story, colleagues wondered whether Morris’s “strategic thinking” was being skewed by “financial self interest.”²⁶

By 2008, when Barack Obama launched his campaign, the level of spending from all sources had ballooned to the point where the limits imposed by public funding were rendered “obsolete,” according to Corrado.²⁷ Obama declined public money and cranked up a formidable fundraising machine, setting the stage for a \$2.4 billion campaign season.²⁸

The unease about who might be getting rich did not rise as dramatically as the spending, however. Rather, it seems to have subsided into an attitude of acceptable inevitability. Because many of the fatter targets, such as Democratic pollster Mark Penn, also had a substantial corporate clientele, the growing wealth of campaign consultants was usually regarded as the by-product of a more professionalized political class. If these consultants had developed a mastery of polling, messaging and data analysis worth millions to business clients, it made sense that campaigns would pay a similar rate.

SHELLS WITHIN SHELLS

Traditionally, the consultants doing media buys kept a commission of 5 to 15 percent and returned some of it to the campaign staff who steered them the business.²⁹ “So you’ll get a congressional campaign manager who on the surface you think is making \$50,000–\$60,000,” former Rick Perry campaign manager Rick Tyler told *Reuters*.³⁰ “The fact is he could be making hundreds of thousands of dollars—you have no idea because he’s being paid separate from what you’re seeing.”³¹ Neither the commissions nor the side deals need to be reported to the FEC. (After working for both Perry and Newt Gingrich in the last presidential race, Tyler became a senior vice president at Strategy Group for Media, the combative Ohio-based firm owned by Rex Elsass, where senior staff drive Bentleys and the boss has a private jet, according to a BuzzFeed profile.)³²

Now that the total ad spending for a national election has skyrocketed, however, many campaigns and independent groups have reconsidered the old formulas. Two books on the 2012 campaign report that David Axelrod hired an outside lawyer to negotiate his compensation from the Obama campaign.³³ Karl Rove, a founder of American Crossroads and its super PAC, Crossroads GPS, told *The Washington Post* that his group paid only a three percent commission, although three percent of the more than \$300 million Crossroads spent in the last election cycle is still a pile of cash.³⁴

Rove, who is a paid contributor to both *Fox News* and *The Wall Street Journal*,³⁵ also said he refused to take a salary at Crossroads because “there was just a generalized sense that too much of this kind of activity was basically of, by and for the consultants.”³⁶ Donors had complained to him that “consultants set these things up, pay a commission to fundraisers, hire themselves to do the work and pay themselves too much.”³⁷ (Tax filings show that Steve Law, the director of Crossroads GPS, earned \$538,000 in 2012.)³⁸

In a 2012 article on campaign ads, *The New Yorker*’s Jane Mayer reported that a top political consultant now makes about \$4 million a year,

which is more than most lobbyists. Current practice, according to her sources, is to pay seven percent of the ad buy to the media consultant, two percent to the pollster and one percent to the campaign manager.³⁹ But it's also become more common for top consultants to work for a flat fee.⁴⁰

This does not mean that a campaign's spending reports to the FEC will show any seven-figure checks written to an individual, however. Annual salaries reported in those filings are higher than they were a decade ago but hardly outrageous for these all-consuming jobs—in the \$250,000–\$300,000 range.⁴¹ But senior advisors do not usually appear on the payroll; rather, they own an limited liability corporation (LLC) that wraps individual compensation into some larger bill for creative or strategic services. (In 2008 most of Axelrod's compensation would have come out of the nearly \$4 million paid to AKPD Message & Media, the consulting firm he sold when he became White House senior advisor.)

Some of these private companies are established businesses with a large staff and substantial real estate. GMMB, for example, which spent \$302 million of Obama's campaign cash in 2012, is a huge “banquet” firm in Washington that performs a smorgasbord of campaign functions.⁴² On the Republican side, Mentzer Media and McCarthy Hennings Media both have long histories with substantial revenues.⁴³

But other campaign vendors are little more than letterhead organizations that can come and go in a single election cycle. Because of the vogue in opaque, acronymic names—VG LLC, SLZ LLC, WWP LLC, NGP VAN—it requires a stop at the state attorney's office to identify the principals. A Reuters reporter discovered that Winning Our Future, the short-lived Newt Gingrich super PAC that was bankrolled almost entirely by Sheldon Adelson, gave \$8 million to two shell companies quickly incorporated by a former ad salesman for Christian radio with no campaign experience.⁴⁴

For those who take the trouble to incorporate in Delaware, the ownership of the LLC may remain secret. That was the case for American

Rambler Productions, a corporation set up by the Romney team that spent more than \$260 million on ad creation and placement.⁴⁵ The purpose of establishing one general contractor for media, explained senior advisor Beth Myers, was to streamline operations and avoid commissions.⁴⁶ Both George W. Bush and Romney himself had done something similar in earlier campaigns. But the collateral result is that it's impossible to determine how much of the \$20 million Rambler spent on "creative" and "strategic" services went to the firms of top advisors Stuart Stevens, Russell Schriefer, Eric Fehrstrom and Myers, all of whom say they worked for a flat fee.⁴⁷

According to a campaign source, the Rambler structure, managed by long-time Romney associate Darrell Crate, saved the campaign \$10 million in commissions. Nevertheless, this arrangement—call it a "super shell"—is also the perfect vehicle to thwart transparency and obscure any instances of profiteering or self-dealing.

It's increasingly common in both parties for political operatives to set up as vendors through so-called "integrated businesses" that provide basic services as well as strategic guidance to the campaign. Again, some of these are well established, and others pop up on demand. For example, *Politico* reported that shortly after GOP strategist Nick Ryan set up a super PAC for Rick Santorum, called the Red White and Blue PAC, Ryan incorporated a direct mail and telemarketing firm, Global Intermediate, that became one of the new PAC's biggest vendors. (Ryan also played a role in the California money shuffle, as the go-to guy at American Future Fund, which has paid hefty fees to another of Ryan's firms, the Concordia Group.)⁴⁸

"Any politician has a retinue of people that over time they build up," said Meredith McGehee, policy director at the Campaign Legal Center and owner of McGehee Strategies.⁴⁹ Becoming part of the inner circle is "a great business. You can make a good living growing all the different services to the candidate or to the super PAC."⁵⁰ In those situations, said Republican strategist Michael Murphy, who has advised many national candidates, the campaign must be a "savvy consumer," and negotiate contracts that

include full disclosure of the vendor's costs and commissions. Otherwise it will see "dumb money rush out the door."⁵¹

This perfectly legal self-dealing was particularly noteworthy in the Romney campaign, where nine vendors with ties to staff received more than \$160 million.⁵² Romney's digital director, Zac Moffatt, for example, steered an eye-popping \$95 million to Targeted Victory, a company he co-founded in 2009 with Michael Beach. Moffatt was officially on leave from the firm in 2012, collecting a \$300,000 campaign salary.⁵³ Senior advisor Myers said that, like American Rambler, Targeted Victory served as the general contractor for digital work, farming out tasks to numerous smaller shops.⁵⁴

As a private partnership, Targeted Victory has no duty to disclose how much it paid to other companies or how much was spent on online advertising, for which industry pros say 10 to 15 percent is the standard commission. Nor must it disclose the terms under which Moffatt resumed his partnership in the company, which had a banner year in 2012.

Similarly, campaign finance chair Spencer Zwick paid his two private firms close to \$29 million for fundraising services. One of them, VG LLC, was incorporated anonymously midway through the campaign, but was soon linked to Zwick, who eventually raised an impressive \$980 million for the campaign.

There's a competitive reason to make some campaign spending difficult to track—for example, by creating a vaguely named shell corporation for media buys. "A new entity means they can fly under the radar for a few minutes," a consultant told Reuters.⁵⁵ "Theoretically it slows down the opposition research on their buying style."⁵⁶ Knowing which markets a campaign is targeting with ads says a great deal about its underlying strategy. Disguising the fundraising operation in a new shell company may create a tactical advantage as well. But how far should the secrecy principle extend? "There are, of course, genuine campaign secrets," Walter

Shapiro has noted, “but the pollster’s profit margin does not have to be one of them.”⁵⁷

THE WILD, WILD WEST

There are now six different types of groups that spend money during a federal election.⁵⁸ Three of these—the candidates’ campaign organizations, traditional PACs, and national party committees—have FEC-enforced limits on the size of contributions they can accept and on the amount they can disburse to a single candidate.⁵⁹ Since *Citizens United*, however, there are also three entities—super PACs, 527 tax-exempt groups and 501(c) tax-exempt groups—that have no limits on the amount of money they can accept or spend.⁶⁰ They cannot contribute directly to a candidate’s campaign, but they can engage in many forms of “electioneering,” including voter outreach and issue advocacy.⁶¹

The super PACs and the 527s, which are established expressly for political activity, must disclose their donors to the FEC. Only the 501(c) groups—the (4)s, with their fuzzy mandate of “social welfare,” and the less common (6) membership groups—are supervised by the IRS and allowed to accept anonymous donations and dues.⁶² So that’s where a lot of money has flowed since the Supreme Court’s decision. (Particularly because a 501(c)(4) such as FreedomWorks can turn around and give money to an affiliated super PAC such as FreedomWorks for America, effectively shielding the original donors.) Both Democrats and Republicans have applied that ingenuity first noted by *The Washington Post* in 1997 to opening and closing 501(c)(4) and (6) groups and shuffling funds among them. In 2012, however, these dark money maneuvers were far more prevalent on the conservative side, both in terms of the number of groups created and the total amount of money disbursed.⁶³

According to OpenSecrets, 66 501(c)(4) groups spent \$83 million in the 2008 election. In 2012, 152 501(c)(4) groups spent \$256 million. Of the 28

organizations that reported spending more than \$1 million on political advertising in the last campaign, 20 were conservative groups, which spent a total of \$204 million; seven were liberal groups, which spent \$33 million; and one was independent.⁶⁴ The 501(c)(4)s account for the bulk of *all* spending by groups that do not disclose donors, for which 2012 totals are as follows:



Figure 1: Reported Spending by Organizations with No Donor Disclosure, 2012

<http://www.opensecrets.org/outsidespending/summ.php?cycle=2012&chart=V&disp=O&type=U>

These new entities have been “transforming the business of running a political campaign and changing the pecking order of the most coveted jobs,” reported *Bloomberg*.⁶⁵ “With a super PAC, the opportunity to make money is soaring while the job is getting easier to do.”⁶⁶

Is it any wonder then that many of the biggest names from campaigns past, including Karl Rove and Dave Carney, jumped to the other side of the game in 2012? Or that they proceeded to raise the practice of shell companies and integrated vendors to a high art?

The tax-exempt groups are required to report minimal information on spending to the IRS, though far less than campaigns report to the FEC. The few details on these 990 tax forms hint at the sums involved. John Murray, a former aide to Congressional “young gun” Eric Cantor who founded a 501(c)(4) called YG Network in 2010, paid himself \$638,000 in 2012, though

the super PAC handled less than \$10 million in grants.⁶⁷ When he was ousted from FreedomWorks in an ideological struggle, Dick Arme y received an \$8 million severance, to be paid out as a \$400,000 annual consulting fee over 20 years, to partially compensate his lost income.⁶⁸

But the biggest payoffs likely came when the principals of these independent groups steered lucrative contracts to their private firms and those of close associates, who could turn around and pay them a consulting fee.

One particular suite of offices in Alexandria, Virginia, epitomizes this tangled web of electioneering and self-dealing. In the prominent conservative blog Red State, Erick Erickson charged that the fifth floor of 66 Canal Center Plaza is “where the seeds of Mitt Romney’s ruin and the RNC’s Get Out the Vote (GOTV) effort collapsed—bled to death by charlatan consultants making millions off the party, its donors and the grassroots.”⁶⁹

Suite 555 housed no fewer than 10 separate organizations, both profit and non-profit, working for the Romney campaign, the Romney super PAC, the Republican National Committee, American Crossroads and assorted smaller entities. The tangle of personnel connections and money transfers among these groups is so complex that *The New York Times* attempted to represent it in a graphic: <http://www.nytimes.com/interactive/2012/02/26/us/politics/66-canal-center-plaza-suite-555.html>.⁷⁰ The ringmaster was Carl Forti, a legendary operative who was political director of Romney’s 2008 campaign and then became a strategic advisor to his 2012 super PAC, Restore Our Future, while also serving as political director of Karl Rove’s Crossroads GPS and running a consulting firm, the Black Rock Group,⁷¹ in partnership with Michael Dubke.⁷²

As complex as it appears to be, the *Times*’ graphic oversimplified the actual situation on the fifth floor. It overlooked at least one tenant that figured prominently in the California money shuffle, Americans for Job Security. AJS, the 501(c)(6) founded by veteran GOP consultant Dave Carney,⁷³ sent \$24.5 million from California donors to Sean Noble’s CPPR⁷⁴

after taking its \$1.5 million cut. (According to the depositions, a 15 percent commission on the California money was split between the fundraisers and the groups that transferred the cash.)⁷⁵

Forti's partner Michael Dubke is a former president of AJS,⁷⁶ which is now officially headed by Stephen DeMaura, while Dubke and Carney have moved on to run Crossroads Media LLC.⁷⁷ But, according to a recent report by the Center for Public Integrity, "Historically, Carney has tapped others to run the group [AJS] on a full-time basis while he works in the background, drumming up business."⁷⁸ That report describes how, in the 2010 election cycle, DeMaura and Carney, with Carney doing the talking, approached several candidates with the same proposition that later snagged the California fundraisers: Steer your big donors to us and we can spend the money to support your cause without revealing their identities.⁷⁹ AJS subsequently paid \$20,000 to settle a dark money complaint lodged with state authorities in Alaska, without admitting any wrongdoing, and was also named in an FEC complaint about dark money in a Colorado senate race.⁸⁰

In sworn testimony, the fundraisers in the California case described a similar approach. They told investigators that it was Carney who first steered them to AJS, although all their later dealings were with DeMaura. Their only further contact with Carney was when he instructed them to use Crossroads Media for any ad work.⁸¹ Crossroads Media has been described as "effectively an in-house ad agency for Rove's political empire."⁸² The private firm received at least \$161 million in 2012 from AJS, American Crossroads and Crossroads GPS (where Rove and Dubke's partner Forti were serving without pay). For Rove, Carney, Dubke and his partner Forti, keeping all the media business in house was "potentially a way to increase their own personal take," PR Watch noted.⁸³

In addition, AJS paid consulting fees to Black Rock and to Norway Hill, Carney's private firm.⁸⁴ And, bizarrely, the CPPR's 990 form for 2011 shows

that it sent \$17,000 *back* to AJS for “general support.”⁸⁵ Such is the tangled web they wove.

Moreover, until it found new Alexandria office space in 2011, Targeted Victory was on the same floor at Canal Place Plaza, in Suite 501.⁸⁶ In the 2012 election cycle, this young firm did more than \$100 million worth of business for the Romney campaign, the Republican National Committee, the Republican Senatorial Committee and Crossroads GPS.⁸⁷ Though Targeted Victory was ostensibly founded by Moffatt and Beach, a document search by the popular conservative website Breitbart.com discovered that Tony Feather, a long-time Rove ally, was still listed as its managing director on Minnesota forms, and that the firm shared an address in that state with Feather’s direct-mail firm FLS Connect.⁸⁸ Romney’s 2012 political director, Rich Beeson, and the RNC’s current chief of staff, Jeff Larson, were both formerly partners at FLS Connect, which worked for both the campaign and the party committees in the last election cycle.⁸⁹

After Breitbart.com unearthed these contradictory filings about what came to be known as the “FLS mafia,”⁹⁰ it asked: “Did Moffatt and Beeson at the Romney campaign and Larson at the RNC help select vendors with whom they have a prior business relationship based on those relationships—and perhaps their own personal financial considerations—rather than the capabilities and records of those vendors?”⁹¹

The context for this question, of course, is that Romney’s digital efforts paled beside those of the Obama campaign, and Targeted Victory’s much touted “Project Orca” system crashed altogether on Election Day.⁹²

If all this is too complicated to follow, that appears to be intentional—a way to thwart investigations like the one in California and some pesky watchdog groups. Breitbart.com notes that the cozy nesting of groups at Canal Center Plaza “raise[s] a series of ethical and managerial questions.”⁹³ It also makes it very difficult to discern how much any of the suite mates took home from the rodeo in 2012. Forti, for example, did not receive a salary from either Restore Our Future or Crossroads GPS, but it’s unlikely

he was volunteering his time.⁹⁴ The consulting fees Black Rock Group collected from Canal Center tenants who had to file reports with either the FEC or the IRS total more than \$300,000. But there's no way to know how much Forti's Black Rock partner, Michael Dubke, might have steered to the firm in the course of spending \$161 million at Crossroads Media, a private firm.⁹⁵

FEC rules prohibit “coordination” between a campaign and a super PAC, and when consultants work for both—as they did at Canal Center Plaza—“regulators should question whether they are operating independently,” a campaign finance expert explained. But without more robust spending disclosure rules such questions don't get very far. Did Targeted Victory use different subcontractors for its work for the campaign and for Restore Our Future? Did it assign different managers? Like every other aspect of its business arrangements—salaries, commissions, overhead—that information remains private. It may turn out that Targeted Victory spent every penny on digital work, and the partners donated their time to a good cause. It's just not possible to know in the absence of a formal complaint and a full-fledged investigation.

Alexander Gage, founder and CEO of Target Point Consulting, another tenant that worked for both the campaign and the super PAC, told *The New York Times* he understood why people might look askance at Suite 555. But “it's not like we are a commingled office,” he said, noting that a conference room separated his shop from Forti's Black Rock Group.⁹⁶ As for his wife, Katie Packer Gage—who was deputy campaign director for the Romney campaign, as well as a one-time partner in WPP, another suite mate with multiple ties—Gage said she worked out of Boston for the most part, and they didn't discuss campaign specifics.⁹⁷

“We know the law and we abide by it scrupulously,” campaign spokeswoman Gail Gitcho told the *Times*.⁹⁸ Most certainly the new era has been a windfall for lawyers, too. They are often the only paid staff declared on a 501(c)(4)'s 990 tax form. As David Axelrod told Richard Wolffe in *The*

Message, “I am a believer in the spirit of campaign finance laws. I’m not a believer in their efficacy. All we’ve done is create a cottage industry for lawyers to try to circumvent the system.”⁹⁹

“I’m sure most of the individuals playing these roles are getting legal advice on what they can and cannot do,” said Rick Hasen, a law professor at UC-Irvine who also runs the Election Law blog. “The human brain being what it is, though, I think it is very difficult to separate those roles.”¹⁰⁰

WHO YA’ GONNA’ CALL?

Carl Forti, who wore at least four hats during the 2012 campaign, told a Harvard University Institute of Politics panel after the election that he had carefully observed federal rules because he didn’t want to “end up in an orange jumpsuit.”¹⁰¹ The implication was that prison is a real threat for political operatives. Yet, Forti surely knows there have been very few criminal prosecutions for campaign finance violations, and almost none for “coordination.”

Indeed, the FEC has long been considered the most dysfunctional commission in the federal government. In January 2011 Hasen declared it to be “as good as dead.”¹⁰² That may change now that two new commissioners have been seated: Democrat Ann Ravel, who prosecuted the California case, and Republican Lee Goodman, a respected campaign finance attorney.¹⁰³ Nevertheless, the panel was basically missing in action in the crucial years following the *Citizens United* ruling, too paralyzed by partisan bickering to write the new rules demanded by a new reality.¹⁰⁴

The FEC does not initiate enforcement actions; it responds to complaints. But for years it has been too polarized to do even that and often deadlocked when it was asked to rule. Citizens for Responsibility and Ethics in Washington (CREW) has filed numerous complaints with the FEC, including several about Americans for Job Security.¹⁰⁵ None has resulted in

disciplinary action according to CREW director Melanie Sloan. Some deadlock; most simply languish, pending for years on end.¹⁰⁶

As for the IRS, the agency was overwhelmed by the flood of new applications for tax exemptions between 2010 and 2012. It tried to stay on top of things by issuing “BOLOs,” or “be on the lookout” advisories, with key words that might indicate political activity.¹⁰⁷ Those tags—“tea party” “patriot,” “progressive,” “occupy,” etc.—became a partisan flash point and the BOLOs have now been discontinued.¹⁰⁸ Yet even in a perfect world, with adequate resources and no resorting to shortcuts, the IRS would still be hamstrung by its own rules when it comes to timely transparency for campaign spending.

For one, a 501(c)(4) is allowed to “self declare” as a tax exempt group and operate for nearly two years before it has to justify that designation to the IRS.¹⁰⁹ That means the new entity can game the system so that none of its activity is exposed during a campaign, when it might sway voters or raise questions for the candidates. In a 2011 paper, Donald Tobin of Ohio State University’s Moritz School of Law explained how this works: It begins six months before the vote when a campaign operative sets up a new tax-exempt organization.¹¹⁰ At this point, the federal application for status as a 501(c)(4) “social welfare” group is optional, so the first mandatory filing to the IRS—the 990—is not due until 15th day of the fifth month following the end of the taxable year, to which the IRS routinely grants a six-month extension.¹¹¹

This means that the 501(c)(4) can operate for 22.5 months before the IRS has a chance to judge whether the majority of its activities legitimately fit the definition of social welfare, or whether, indeed, it should have been registered as a 527 non-profit engaged in electioneering, and therefore disclosed its donors and made timely reports to the FEC during the campaign.¹¹² By then the votes have been counted, and no fines will reverse the group’s impact on the outcome or do much harm to an organization supported by multi-billionaires such as Sheldon Adelson or

Charles Koch. (The \$1 million fine levied against CPPR and ARL was quickly paid by cashier's check with no indication where the money came from.)¹¹³

As a result, some of the groups active in the 2012 election cycle remained completely unknown until late 2013, when they filed an initial tax return. That was the first time, for example, that the public became aware of Freedom Partners, which spent some \$250 million in a single campaign year—including a \$115 million grant to the Center to Protect Patient Rights. (Freedom Partners incorporated under the 501(c)(6) “business league” category used by trade associations.)¹¹⁴

The other stumbling block for IRS enforcement has been the vague, unevenly applied concept of “social welfare.” The statute governing 501(c)(4) groups requires them to act “exclusively” for the promotion of social welfare.¹¹⁵ But in its regulation pursuant to the statute, the IRS in 1959 replaced “exclusively” with “primarily,” creating a giant loophole through which hundreds of millions have flowed.¹¹⁶ The 501(c)(4)s now interpret the rule to mean that they just need to keep their political work to less than half the total reported spending. These groups also routinely claim the money they pass on to other 501(c)(4)s for “program support” as part of their “social welfare” obligation, without having to specify the other group's activities.¹¹⁷

In November 2013 CREW officially asked the IRS to investigate Grover Norquist's Americans for Tax Relief (ATR), a 501(c)(4) that reported substantially different totals for political spending to the FEC and the IRS.¹¹⁸ (Remarkably, given how intertwined the two sets of campaign finance rules are, the FEC reports do not require the group's IRS Employee Identification number (EIN), and the IRS does not have any system for checking information filed to the FEC.)¹¹⁹ If the correct figure was \$15,794,582, as reported to the FEC, rather than \$9,791,515, as reported to the IRS, then ATR spent slightly more than 50 percent of its \$30.9 million budget for 2012 on politics, violating its tax-exempt status.¹²⁰

OpenSecrets then pointed out that the higher figure also means that part of the \$26 million Crossroads GPS gave to ATR in 2012 was surely used for political purposes, so it cannot be claimed as “social welfare purposes” by Rove’s group.¹²¹ Jonathan Collegio, a spokesperson for Crossroads GPS, suggested that ATR might have been spending money left over from 2011 instead of the grant from Crossroads.¹²² Marcus Owens, a former head of the IRS’s Exempt Organizations division, examined all the filings for ProPublica and dismissed that explanation as “bullshit with a serving of horseshit on the side.”¹²³

WHAT IS TO BE DONE?

Last spring CREW asked the IRS for a new rule making on the social welfare designation.¹²⁴ “For decades this regulation has been a point of contention,” CREW’s Sloan said in their press release. “Being ‘aware’ of the problem is not the same as doing something about it. Political spending by tax-exempt groups is out of hand.” Sen. Carl Levin agreed in a March 2013 statement on the Senate floor: “It is time the IRS enforces the law or at least its own regulation.”¹²⁵ However, the hearings his subcommittee had planned on enforcement were postponed when the “BOLO” controversy erupted so that the panel could also investigate this issue; so far they have not been rescheduled.

Finally, in late November 2013 the IRS did propose more explicit rules for 501(c)(4) groups and asked for public comments. The new guidelines seek to clarify what counts as political activity, and to put a more specific limit on it.¹²⁶ Public interest groups would like that limit to be as low as 15 percent.¹²⁷ The proposed rule changes address the issue of counting grants to another 501(c)(4) as social welfare spending, but not the delay in tax returns for “self declared” 501(c)(4)s. Any proposed changes are sure to reignite the bitter fight waged over BOLOs, and the comment period will likely push any reforms past the 2014 election.

Meanwhile NPR reported in March 2013 that the IRS was initiating a new “compliance check” for self-declared 501(c)(4) and 501(c)(6) groups in the form of a nine-page questionnaire about their activities, finances, compensation and perks.¹²⁸ (This comes after several years of watchdog groups unsuccessfully lobbying Congress to extend the rules candidates must follow about personal use of campaign funds to the PACs and super PACs.) Completing the new questionnaire is voluntary, although refusing may prompt an audit. None of the information will be available to the public.¹²⁹

But should it be? Shouldn’t these groups that solicit contributions and play an ever-bigger role in the democratic process be subject to the same scrutiny as any public charity—or any publicly traded corporation? Former FEC commissioner Cynthia Baurley, who resigned in February, 2013,¹³⁰ held the common view that donors can be an adequate corrective for profiteering or self-dealing or waste—even if it’s only after the fact. “Our system is based on the idea that [super PACs] can basically spend money however they see fit, and if your donors think the committee is not spending it wisely, then they can decide not to give further,” she told Reuters in 2011.¹³¹

Indeed, a group of conservative donors, unhappy with the fate of their candidates and causes in 2012, have reportedly launched an internal audit of the big-spending independent groups on the right. But a billionaire may not be as offended as the average voter that a political operative pocketed millions. So why should anyone else care?

“Cash could be changing the substance of American politics,” Robert Kaiser wrote in his 2009 book *So Damn Much Money*. Rich new financial incentives may explain why politics has become viciously polarized while the majority of voters remain in the center. Kaiser quoted two scholars in writing, “The political class is a relatively small proportion of the American citizenry, but it is...the face the media portrays as an accurate image of the American public. It is not.”¹³² One way political stories get distorted is for

journalists to cover the campaign industrial complex without scrutinizing its financial underpinnings. If they did, they might well discover that, as Kaiser argued, “extremism...pays, literally”—and that was written *before* the *Citizens United* decision.¹³³

This spring the Supreme Court’s decision on *McCutcheon v. FEC*— a suit challenging the legal cap on direct contributions to candidates— may topple another limit on political donations and open the floodgates even wider.¹³⁴ So it’s high time for the U.S. media to ask: Was the behavior exposed by California investigators an aberration or a rare glimpse into a widespread system of money laundering and self-enrichment? Is Sean Noble a rogue actor or a typical foot soldier on the modern battle field?

To be clear, nothing about Noble’s personal payday is illegal—the California campaign violation involved donor disclosures. But it should be newsworthy as evidence that the “Kochtopus” as some have taken to calling the network of Koch-affiliated groups, has become a good way to get rich.¹³⁵

FOLLOW THE WATCHDOGS

CREW, OpenSecrets, ProPublica and other watchdog groups deserve enormous credit for grappling with the mind-numbing new realities of campaign spending—the complex, overlapping rules and the coterie of operators creatively gaming the system. This paper relies on their hard work building out searchable databases and laboriously cross-checking IRS filings against state incorporation records and FEC reports. Those efforts have uncovered some misdeeds but also exposed the limits of what can be known without more robust disclosure laws or the power of a subpoena.

Last April, the Congressional Research Service issued a report on super PACs that concluded: “In the absence of additional reporting requirements, or perhaps amendments clarifying the FEC’s coordination rules,

determining the professional networks that drive super PACs will likely be left *to the media or self-reporting*.”¹³⁶ (Emphasis mine.)

Self-reporting is highly unlikely, so the press should heed the call to arms issued to academics by John C. Fortier and Michael J. Malbin in their recent paper, *An Agenda for Future Research on Money in Politics in the United States*.¹³⁷ “Much of the activity is beneath the surface, with funds passing through several hands, across jurisdictions, and oftentimes undisclosed,” they write. “While we are sure this is where the action has been, we are not yet able to map it out well. Doing so should be a priority.”

Why, for example, do so many 501(c)(4) tax returns declare zero for employee salaries and millions for “other”? Why did Sean Noble bank some grants to CPPR through what’s known as a “disregarded entity” (don’t even ask) formerly called the Eleventh Edition LLC,¹³⁸ but named Corner Table LLC when he used it in 2011,¹³⁹ then renamed Cactus Wren LLC on CPPR’s 2012 tax filing?¹⁴⁰

The Daily Beast’s John Avlon recently described how Sarah Palin’s SarahPAC had spent most of its money on consultants and only a small fraction on candidates.¹⁴¹ He called the PAC “a lifestyle play, propping up an expensive ideological entourage,” and was moved to quote the great labor intellectual Eric Hoffer: “Every great cause begins as a movement, becomes a business, and eventually degenerates into a racket.”

The press needs to keep up.

Endnotes

- ¹ Avlon, J., & Keller, M. (2012, September 18). The super PAC economy: Who's getting rich, and how they're pulling it off. Part one of a series on the new world of campaign finance. The Daily Beast. Retrieved from <http://www.thedailybeast.com/articles/2012/09/18/the-super-pac-economy.html>
- ² Wilner, E. personal communication, December 5, 2013.
- ³ Fitzgerald, A. & Salant, J. (2012, October 15). Secret political cash moves through nonprofit daisy chain. *Bloomberg Businessweek*, Retrieved from <http://www.businessweek.com/news/2012-10-14/secret-political-cash-moves-through-nonprofit-daisy-chain>
- ⁴ 2012 election spending will reach \$6 billion, center for responsive politics predicts. (2012, October 31). *OpenSecretsblog: Investigating Money in Politics*. Retrieved from <http://www.opensecrets.org/news/2012/10/2012-election-spending-will-reach-6.html>
- ⁵ Catan, T., & Mullins, B. (2013, November 14). Karl rove-backed groups raised \$325 million in 2012 cycle. *The Wall Street Journal*. Retrieved from <http://blogs.wsj.com/washwire/2013/11/14/karl-rove-backed-groups-raised-325-million-in-2012-cycle/>; Guidance for Tax-Exempt Social Welfare Organizations on Candidate-Related Political Activities, 78 Fed. Reg. 71535 (proposed November 29, 2013) (to be codified at 26 C.F.R.)
- ⁶ "dark money." In [sunlightfoundation.com](http://adhawk.sunlightfoundation.com/glossary/#Dar). Retrieved December 16, 2013, from <http://adhawk.sunlightfoundation.com/glossary/#Dar>
- ⁷ Novak, V. (2013, October 24). California investigation reveals some donors in dark money scheme. *OpenSecretsblog: Investigating Money in Politics*. Retrieved from <http://www.opensecrets.org/news/2013/10/california-investigation-reveals-so.html>
- ⁸ Stone, P. (2013, October 04). Sean Noble, 'wizard' behind Koch brothers' donor network, now on the outs. The Huffington Post. Retrieved from http://www.huffingtonpost.com/2013/10/02/sean-noble-koch-brothers_n_4017578.html
- ⁹ Barker, K. (2013, October 24). Dark money groups pay \$1 million in fines in California case. ProPublica. Retrieved from <http://www.propublica.org/article/dark-money-groups-pay-1-million-dollars-in-fines-in-california-case>
- ¹⁰ Novak, V. (2013, October 24). California investigation reveals some donors in dark money scheme. *OpenSecretsblog: Investigating Money in Politics*. Retrieved from <http://www.opensecrets.org/news/2013/10/california-investigation-reveals-so.html>
- ¹¹ Barker, K. (2013, October 24). Dark money groups pay \$1 million in fines in California case. ProPublica. Retrieved from <http://www.propublica.org/article/dark-money-groups-pay-1-million-dollars-in-fines-in-california-case>
- ¹² *Ibid.*
- ¹³ *Ibid.*
- ¹⁴ Federal Election Commission, (2013). *Commissioner Ann M. Ravel*. Retrieved from website: http://www.fec.gov/members/ravel/ravel_bio.shtml
- ¹⁵ Internal Revenue Service. (2012). *Form 990: Return of organization exempt from income tax: Center to Protect Patient Rights, Inc.*
- ¹⁶ Shapiro, W. (2007, April 26). Are political consultants getting rich off your money? Salon, Retrieved from http://www.salon.com/2007/04/26/consultants_2/

- ¹⁷ Internal Revenue Service, (2013). *Form 990: Return of organization exempt from income tax*. Retrieved from website: <http://www.irs.gov/pub/irs-pdf/f990.pdf>
- ¹⁸ Internal Revenue Service. (2012). *Form 990: Return of organization exempt from income tax: Center to Protect Patient Rights, Inc*. Internal Revenue Service. (2011). *Form 990: Return of organization exempt from income tax: Center to Protect Patient Rights, Inc*.
- ¹⁹ McKinnon, M. personal communication, October 13, 2013.
- ²⁰ Miller Dep. 89:16; 95:24 – 96:2, August 16, 2013.
- ²¹ Federal Election Commission, (n.d.). *The federal election campaign laws: A short history*. Retrieved from website: <http://www.fec.gov/info/appfour.htm>
- ²² *Buckley v. Valeo*, 424 U.S. 1, 39-58 (1976).
- ²³ Corrado, A. (2012, June 13). The lost hope for campaign reform. *The New York Times*. Retrieved from <http://www.nytimes.com/roomfordebate/2012/06/13/did-any-good-come-of-watergate/the-promise-of-campaign-reform-has-largely-been-broken>
- ²⁴ Marcus, R., & Babcock, C. (1997, February 09). System cracks under weight of cash. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/wp-srv/politics/special/campfin/stories/overhaul.htm>
- ²⁵ Giroux, G. (2012, August 14). TV ad makers earn more super PAC millions for less work. *Bloomberg Politics*. Retrieved from <http://www.bloomberg.com/news/2012-07-25/tv-ad-makers-earn-more-super-pac-millions-for-less-work.html>
- ²⁶ Marcus, R., & Babcock, C. (1997, February 09). System cracks under weight of cash. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/wp-srv/politics/special/campfin/stories/overhaul.htm>
- ²⁷ Corrado, A. (2012, June 13). The lost hope for campaign reform. *The New York Times*. Retrieved from <http://www.nytimes.com/roomfordebate/2012/06/13/did-any-good-come-of-watergate/the-promise-of-campaign-reform-has-largely-been-broken>
- ²⁸ Cummings, J. (2008, November 05). 2008 campaign costliest in U.S. history. Politico. Retrieved from <http://www.politico.com/news/stories/1108/15283.html>
- ²⁹ Stern, M., Cooke, K., & Cohen, A. (2012, May 10). Insight: Super PACs: Follow the money – if you can. Reuters. Retrieved from <http://www.reuters.com/article/2012/05/10/us-usa-campaign-superpacs-idUSBRE8490K820120510>
- ³⁰ *Ibid.*
- ³¹ *Ibid.*
- ³² Coppins, M. (2013, June 03). Inside the meltdown at America’s most conservative, most Christian political consulting firm. BuzzFeed Politics. Retrieved from <http://www.buzzfeed.com/mckaycoppins/inside-the-meltdown-at-americas-most-conservative-most-chris>
- ³³ Alter, J. (2013). *The center holds: Obama and his enemies*. New York, NY: Simon & Schuster.
- ³⁴ Tumulty, K. (2012, November 10). Karl Rove and his super PAC vow to press on. *The Washington Post*. Retrieved from http://www.washingtonpost.com/politics/karl-rove-and-his-super-pac-vow-to-press-on/2012/11/10/19ed28ea-2a96-11e2-b4e0-346287b7e56c_print.html
- ³⁵ *Biography*. (n.d.). Retrieved from <http://www.rove.com/bio>

- ³⁶ Tumulty, K. (2012, November 10). Karl Rove and his super PAC vow to press on. *The Washington Post*. Retrieved from http://www.washingtonpost.com/politics/karl-rove-and-his-super-pac-vow-to-press-on/2012/11/10/19ed28ea-2a96-11e2-b4e0-346287b7e56c_print.html
- ³⁷ *Ibid.*
- ³⁸ Conrads, B. (2013, November 21). [Web log message]. Retrieved from <http://www.opensecrets.org/news/2013/11/yg-network-has-a-big-haul-and-pays-a-big-salary.html>.
- ³⁹ Mayer, J. (2012, February 13). Attack dog: The creator of the Willie Horton ad is going all out for Mitt Romney. *The New Yorker*, Retrieved from http://www.newyorker.com/reporting/2012/02/13/120213fa_fact_mayer?currentPage=all
- ⁴⁰ Garin, G. (2013, September 28). Interview by L. Aitken.
- ⁴¹ *Reuters'* analysis of filings with the Federal Election Commission.
- ⁴² *Ibid.*
- ⁴³ *Ibid.*
- ⁴⁴ Stern, M., Cooke, K., & Cohen, A. (2012, May 10). Insight: Super PACs: Follow the money – if you can. *Reuters*. Retrieved from <http://www.reuters.com/article/2012/05/10/us-usa-campaign-superpacs-idUSBRE8490K820120510>
- ⁴⁵ Campaign information supplied to Federal Election Commission.
- ⁴⁶ Myers, B. (2013, October 07). Interview by L. Aitken.
- ⁴⁷ *Ibid.*
- ⁴⁸ Miller Dep. 81:1– 82:17, August 16, 2013.
- ⁴⁹ *McGehee strategies: Helping make good things happen*. Retrieved from <http://mcg.nicco.org/>
- ⁵⁰ Stern, M., Cooke, K., & Cohen, A. (2012, May 10). Insight: Super PACs: Follow the money – if you can. *Reuters*. Retrieved from <http://www.reuters.com/article/2012/05/10/us-usa-campaign-superpacs-idUSBRE8490K820120510>
- ⁵¹ Murphy, M. (2013, November 01). Interview by L. Aitken.
- ⁵² Campaign information supplied to Federal Election Commission.
- ⁵³ *Ibid.*
- ⁵⁴ Myers, B. (2013, October 07). Interview by L. Aitken.
- ⁵⁵ Stern, M., Cooke, K., & Cohen, A. (2012, May 10). Insight: Super PACs: Follow the money – if you can. *Reuters*. Retrieved from <http://www.reuters.com/article/2012/05/10/us-usa-campaign-superpacs-idUSBRE8490K820120510>
- ⁵⁶ *Ibid.*
- ⁵⁷ Shapiro, W. (2007, April 26). Are political consultants getting rich off your money? *Salon*. Retrieved from http://www.salon.com/2007/04/26/consultants_2/
- ⁵⁸ Garrett, R. (2013, April 04). Super PACs in Federal Elections: Overview and Issues for Congress (Congressional Report No. R42042). Washington DC: Library of Congress Congressional Research Service. Retrieved <http://www.fas.org/sgp/crs/misc/R42042.pdf>
- ⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ Shape-Shifting by Liberal Dark Money Groups Seems Meant to Confuse (2013, May 22). *OpenSecretsblog: Investigating Money in Politics*. Retrieved from <https://www.opensecrets.org/news/2013/05/shape-shifting-by-liberal-dark-mone.html>

⁶⁴ *Political nonprofits: Top election spenders*. (n.d.). Retrieved from http://www.opensecrets.org/outsidespending/nonprof_elec.php

⁶⁵ Giroux, G. (2012, August 14). TV ad makers earn more super PAC millions for less work. *Bloomberg Politics*. Retrieved from <http://www.bloomberg.com/news/2012-07-25/tv-ad-makers-earn-more-super-pac-millions-for-less-work.html>

⁶⁶ *Ibid.*

⁶⁷ Conradis, B. (2013, November 21). [Web log message]. Retrieved from <http://www.opensecrets.org/news/2013/11/yg-network-has-a-big-haul-and-pays-a-big-salary.html>.

⁶⁸ Walshe, S. (2012, December 29). *Dick Arney defends his \$8 million deal to leave freedomworks*. Retrieved from <http://abcnews.go.com/Politics/OTUS/dick-armey-defends-million-deal-leave-freedomworks/story?id=18077760>

⁶⁹ Erickson, E. (2012, November 28). [Web log message]. Retrieved from <http://www.redstate.com/2012/11/28/the-incestuous-bleeding-of-the-republican-party/>

⁷⁰ 66 canal center plaza, suite 555. (2012, February 25). *The New York Times*. Retrieved from <http://www.nytimes.com/interactive/2012/02/26/us/politics/66-canal-center-plaza-suite-555.html>

⁷¹ Kroll, A. (2012, January - February). *Mother Jones*. *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*. Retrieved from <http://www.motherjones.com/politics/2012/01/carl-forti-romney-super-PAC>

⁷² Dooling, W. (2012, December 04). Where did all those super PAC dollars go? 1/3 of all outside money moved through handful of media firms. *PR Watch*. Retrieved from <http://www.prwatch.org/news/2012/12/11868/where-did-all-those-super-pac-dollars-go-13-all-outside-money-moved-through-handf>

⁷³ *Ibid.*

⁷⁴ Barker, K. (2013, October 24). Dark money groups pay \$1 million in fines in California case. *ProPublica*. Retrieved from <http://www.propublica.org/article/dark-money-groups-pay-1-million-dollars-in-fines-in-california-case>

⁷⁵ Miller Dep. 119:20 – 122:2, August 16, 2013.

⁷⁶ Dooling, W. (2012, December 04). Where did all those super pac dollars go? 1/3 of all outside money moved through handful of media firms. *PR Watch*. Retrieved from <http://www.prwatch.org/news/2012/12/11868/where-did-all-those-super-pac-dollars-go-13-all-outside-money-moved-through-handf>

⁷⁷ Stone, P. (2010, October 26). Americans for job security — how a shadow group hustles for funds. *The Center for Public Integrity*. Retrieved from <http://www.publicintegrity.org/2010/10/26/2395/americans-job-security—how-shadow-group-hustles-funds>

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*

⁸⁰ Stone, P. (2010, October 26). Americans for job security — how a shadow group hustles for funds. The Center for Public Integrity. Retrieved from <http://www.publicintegrity.org/2010/10/26/2395/americans-job-security—how-shadow-group-hustles-funds>

⁸¹ Miller Dep. 38:20 – 40:2, August 16, 2013.

⁸² Dooling, W. (2012, December 04). Where did all those super PAC dollars go? 1/3 of all outside money moved through handful of media firms. PR Watch. Retrieved from <http://www.prwatch.org/news/2012/12/11868/where-did-all-those-super-pac-dollars-go-13-all-outside-money-moved-through-handf>

⁸³ *Ibid.*

⁸⁴ Internal Revenue Service. (2011). *Form 990: Return of organization exempt from income tax: Americans for Job Security.*

⁸⁵ Internal Revenue Service. (2011). *Form 990: Return of organization exempt from income tax: Center to Protect Patient Rights, Inc.*

⁸⁶ Leahy, M. (2012, November 29). Romney campaign paid \$33 million to two consulting firms with ties to key staffers. Breitbart. Retrieved from <http://www.breitbart.com/Big-Government/2012/11/29/Romney-Campaign-Paid-33-Million-to-Two-Consulting-Firms-With-Ties-to-Key-Staffers>; Barker, K. (2013, October 24). Dark money groups pay \$1 million in fines in California case. ProPublica. Retrieved from <http://www.propublica.org/article/dark-money-groups-pay-1-million-dollars-in-fines-in-california-case>

⁸⁷ Reuters' analysis of filings with the Federal Election Commission.

⁸⁸ Leahy, M. (2012, November 29). Romney campaign paid \$33 million to two consulting firms with ties to key staffers. Breitbart. Retrieved from <http://www.breitbart.com/Big-Government/2012/11/29/Romney-Campaign-Paid-33-Million-to-Two-Consulting-Firms-With-Ties-to-Key-Staffers>

⁸⁹ *Ibid.*

⁹⁰ Alter, J. (2013). *The center holds: Obama and his enemies.* New York, NY: Simon & Schuster.

⁹¹ Leahy, M. (2012, November 29). Romney campaign paid \$33 million to two consulting firms with ties to key staffers. Breitbart. Retrieved from <http://www.breitbart.com/Big-Government/2012/11/29/Romney-Campaign-Paid-33-Million-to-Two-Consulting-Firms-With-Ties-to-Key-Staffers>

⁹² Dooling, W. (2012, December 04). Where did all those super PAC dollars go? 1/3 of all outside money moved through handful of media firms. PR Watch. Retrieved from <http://www.prwatch.org/news/2012/12/11868/where-did-all-those-super-pac-dollars-go-13-all-outside-money-moved-through-handf>

⁹³ Leahy, M. (2012, November 29). Romney campaign paid \$33 million to two consulting firms with ties to key staffers. Breitbart. Retrieved from <http://www.breitbart.com/Big-Government/2012/11/29/Romney-Campaign-Paid-33-Million-to-Two-Consulting-Firms-With-Ties-to-Key-Staffers>

⁹⁴ FEC data compiled by the Center for Responsive Politics.

⁹⁵ *Ibid.*

⁹⁶ McIntire, M. (2012, February 25). Fine line between 'super PACs' and campaigns. *The New York Times*. Retrieved from <http://www.nytimes.com/2012/02/26/us/politics/loose-border-of-super-pac-and-romney-campaign.html?pagewanted=all>

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*

⁹⁹ Wolffe, R. (2013). *The message: The reselling of President Obama*. New York, NY: Grand Central Publishing.

¹⁰⁰ Barker, K. (2013, October 24). Dark money groups pay \$1 million in fines in California case. ProPublica. Retrieved from <http://www.propublica.org/article/dark-money-groups-pay-1-million-dollars-in-fines-in-california-case>

¹⁰¹ Forti, C. (2012, November). *Discussions on independent expenditures*. 2012 campaign decision makers conference.

¹⁰² Hasen, R. (2011, January 25). The FEC is as good as dead. Slate, Retrieved from http://www.slate.com/articles/news_and_politics/jurisprudence/2011/01/the_fec_is_as_good_as_dead.html

¹⁰³ Federal Election Commission, (2013). *Commissioner Lee E. Goodman*. Retrieved from website: http://www.fec.gov/members/goodman/goodman_bio.shtml

¹⁰⁴ Hasen, R. (2011, January 25). The FEC is as good as dead. Slate, Retrieved from http://www.slate.com/articles/news_and_politics/jurisprudence/2011/01/the_fec_is_as_good_as_dead.html

¹⁰⁵ Crew files IRS and FEC complaints against Americans for job security. (2012, May 08). *Citizens for responsibility and ethics in Washington*. Retrieved from <http://www.citizensforethics.org/legal-filings/entry/irs-federal-election-commission-complaints-vs-americans-for-job-security>

¹⁰⁶ Sloan, M. (2013, December). Interview by L. Aitken.

¹⁰⁷ U.S. Department of Treasury, Treasury Inspector General For Tax Administration. (2013). *Inappropriate criteria were used to identify tax-exempt applications for review* (2013-10-053). Retrieved from website: <http://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf>

¹⁰⁸ Gregory, P. (2013, June 25). The timeline of IRS targeting of conservative groups. *Forbes*, Retrieved from <http://www.forbes.com/sites/paulroderickgregory/2013/06/25/the-timeline-of-irs-targeting-of-conservative-groups/>

¹⁰⁹ Tobin, D. (2011). Campaign disclosure and tax-exempt entities: A quick repair to the regulatory plumbing. *Election Law Journal*, 10(4), 427-448. doi: 10.1089/elj.2011.0118

¹¹⁰ *Ibid.*

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ Barker, K. (2013, October 24). Dark money groups pay \$1 million in fines in California case. ProPublica. Retrieved from <http://www.propublica.org/article/dark-money-groups-pay-1-million-dollars-in-fines-in-california-case>

- ¹¹⁴ Allen, M., & Vandehei, J. (2013, September 11). Exclusive: The Koch brothers' secret bank. Politico. Retrieved from <http://www.politico.com/story/2013/09/behind-the-curtain-exclusive-the-koch-brothers-secret-bank-96669.html>
- ¹¹⁵ Exemption from tax on corporations, certain trusts, etc., 26 USC § 501(c) (2010).
- ¹¹⁶ 26 C.F.R. § 1.501(c)(4)-1 (2013)
- ¹¹⁷ Crew files IRS and DOJ complaint against Americans for tax reform and Grover Norquist. (2013, November 19). *Citizens for responsibility and ethics in Washington*. Retrieved from <http://www.citizensforethics.org/legal-filings/entry/crew-irs-doj-complaint-against-americans-for-tax-reform-grover-norquist>
- ¹¹⁸ *Ibid.*
- ¹¹⁹ Maguire, R. (2013, September 09). *Opensecrets.org's new dark money data measures groups' politicization*. Retrieved from <http://www.opensecrets.org/news/2013/09/opensecretsorgs-new-dark-money-data-measures-groups-politicization.html>
- ¹²⁰ Crew files IRS and DOJ complaint against Americans for tax reform and Grover Norquist. (2013, November 19). *Citizens for responsibility and ethics in Washington*. Retrieved from <http://www.citizensforethics.org/legal-filings/entry/crew-irs-doj-complaint-against-americans-for-tax-reform-grover-norquist>
- ¹²¹ Barker, K. (2013, November 25). New tax return shows Karl Rove's group spent even more on politics than it said. ProPublica. Retrieved from <http://www.propublica.org/article/new-tax-return-shows-karl-roves-group-spent-more-on-politics-than-it-said>
- ¹²² *Ibid.*
- ¹²³ *Ibid.*
- ¹²⁴ Crew calls on IRS to amend rule allowing social welfare groups to engage in political activity. (2013, April 09). *Citizens for responsibility and ethics in Washington*. Retrieved from <http://www.citizensforethics.org/legal-filings/entry/crew-irs-rulemaking-petition-social-welfare-groups-political-activity>
- ¹²⁵ United States Senate, (2012). *Senate floor statement on the Internal Revenue Service and 501(c)(4) organizations*. Retrieved from website: [http://www.levin.senate.gov/newsroom/speeches/speech/senate-floor-statement-on-the-internal-revenue-service-and-501\(c\)\(4\)-organizations](http://www.levin.senate.gov/newsroom/speeches/speech/senate-floor-statement-on-the-internal-revenue-service-and-501(c)(4)-organizations)
- ¹²⁶ Confessore, N. (2013, November 26). New rules would rein in nonprofits' role. *The New York Times*. Retrieved from <http://www.nytimes.com/2013/11/27/us/politics/new-campaign-rules-proposed-for-tax-exempt-nonprofits.html>
- ¹²⁷ *Ibid.*
- ¹²⁸ Overby, P. (2013, March 30). IRS to 'social welfare' groups: Show me the political ad money. NPR. Retrieved from <http://www.npr.org/blogs/itsallpolitics/2013/03/30/175761558/irs-to-social-welfare-groups-show-me-the-political-ad-money>
- ¹²⁹ *Ibid.*
- ¹³⁰ Blumenthal, P. (2013, January 15). Cynthia Bauerly, FEC commissioner, to resign on February 1. The Huffington Post. Retrieved from http://www.huffingtonpost.com/2013/01/04/cynthia-bauerly-fec_n_2411805.html

- ¹³¹ Stern, M., Cooke, K., & Cohen, A. (2012, May 10). Insight: Super PACs: Follow the money – if you can. Reuters. Retrieved from <http://www.reuters.com/article/2012/05/10/us-usa-campaign-superpacs-idUSBRE8490K820120510>
- ¹³² Kaiser, R. (2009). *So damn much money: The triumph of lobbying and the corrosion of American government*. (p. 98). New York, NY: Knopf.
- ¹³³ *Ibid.* at 97.
- ¹³⁴ *McCutcheon v. Federal Election Commission*. SCOTUSblog. Retrieved from <http://www.scotusblog.com/case-files/cases/mccutcheon-v-federal-election-commission/>
- ¹³⁵ Mayer, J. (2010, August 30). Covert operations: The billionaire Koch brothers who are waging a war against Obama. *The New Yorker*, Retrieved from http://www.newyorker.com/reporting/2010/08/30/100830fa_fact_mayer?printable=true
- ¹³⁶ Garrett, R. (2013, April 04). Super PACs in Federal Elections: Overview and Issues for Congress (Congressional Report No. R42042). Washington, D.C.: Library of Congress Congressional Research Service. Retrieved <http://www.fas.org/sgp/crs/misc/R42042.pdf>
- ¹³⁷ Fortier, J., & Malbin, M. (2013). An agenda for future research on money in politics in the United States. *The Forum: A Journal of Applied Research in Contemporary Politics*, 11(3), 455-479. doi: 10.1515/for-2013-0054 .
- ¹³⁸ Exclusive: Largest Dark Money Donor Groups Share Funds, Hide Links (2013, September 10). *OpenSecretsblog: Investigating Money in Politics*. Retrieved from <http://www.opensecrets.org/news/2013/09/exclusive-largest-dark-money-donor-groups-hide-ties-using-new-trick.html>
- ¹³⁹ Internal Revenue Service. (2011). *Form 990: Return of organization exempt from income tax: Center to Protect Patient Rights, Inc.*
- ¹⁴⁰ Internal Revenue Service. (2012). *Form 990: Return of organization exempt from income tax: Center to Protect Patient Rights, Inc.*
- ¹⁴¹ Avlon, J. (2013, March 29). Palin’s SarahPAC embarrassment: Consultants are cashing in. *The Daily Beast*. Retrieved from <http://www.thedailybeast.com/articles/2013/03/29/palin-s-sarahpac-embarrassment-consultants-are-cashing-in.html>