



The Center for Media and Democracy

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Beyond Super PACs

Appendix to the Testimony of the Center for Media and Democracy
July 22, 2012

Case Studies of Nonprofit Spending that Influences Elections. The Center for Media and Democracy has been working to expose corporate front groups for almost twenty years. Although Congress has previously passed measures to address some of the most egregious ways money and virtually anonymous attack ads are undermining the integrity of American elections (as with the 527 rules adopted in the middle of the 2000 campaign and BCRA in 2002), some Senators have thwarted much needed disclosure.

In this climate, it should come as no surprise that groups that do not report their donors or their ad spending have flourished. Some of the groups, like the U.S. Chamber of Commerce and its Institute for Legal Reform, have been around for years and have been increasingly involved in activities that ordinary citizens perceive as political or electoral. Other groups have popped more recently, with little information about who they really represent, let alone who funds them.

Many groups running ads to influence elections are operating outside of the PAC rules as 501(c)(3), (4), (5), and (6) organizations. Concerns about them need to be part of the discussion of the problem and the search for solutions. The case studies below focus first on the most recent major post-*Citizens United* election (in Wisconsin) and on the dark money spent in the Iowa presidential primary.

Americans for Prosperity



Despite what AFP materials say, it claims this isn't about candidates...

David Koch's Americans for Prosperity (AFP) reportedly spent \$10 million on Wisconsin's election that was held last month in which a million citizens petitioned to recall controversial Governor Scott Walker but fell short on election day. It spent more than Walker's opponent, Tom Barrett, raised or spent, but it did not register with the state elections board, did not disclose who besides Koch was funding its operations, and did not report how it spent the \$10 million it bragged about spending.

AFP's activities provide a snapshot of the group's likely operations in the presidential race and other elections as part of the \$400 million David Koch and his brother Charles have reportedly pledged as part of the billion dollar club Rove is helping in order win the White House and Congress.

In the weeks before the election, the director of AFP's Wisconsin arm, Luke Hilgemann, told reporters AFP's ads, bus tours, rallies, and mobile phone banks had nothing to do with the elections: "We're not dealing with any candidates, political parties or ongoing races." One of the thousands of door hangers distributed by AFP is photographed above and plainly contradicts AFP's claims. Hilgemann also said "We're just educating folks on the importance of the reforms" of Walker -- which AFP previously backed with a "Stand with Walker" ad and sign blitz in 2011 when protests of the governor's reforms rocked the state.

The AFP Foundation is a "charity" registered under Section 501(c)(3) of the Internal Revenue Code. It spent at least \$3 million on television ads that looked like clear appeals to re-elect Governor Walker. The

ads touted the alleged benefits of Walker’s controversial changes to state law and reinforced similar themes of ads by the candidate. The AFP Foundation also organized a series of meetings across the state to “educate” voters on the importance of Walker’s reforms. The ads and meetings were produced in collaboration with the Wisconsin-based MacIver Institute, which is also organized under Section 501(c)(3) of the Code.

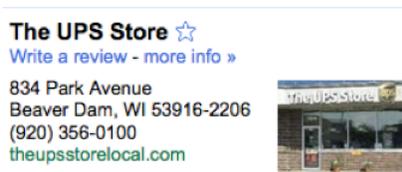
As 501(c)(3)s, both the AFP Foundation and MacIver Institute are prohibited from intervening in political campaigns. This absolute prohibition on 501(c)(3) electoral activity has been justified because corporate or individual donations to groups like these can be written-off as tax-deductible charitable deductions. The policy and legal judgment is that American taxpayers should not forego tax revenue so a corporation or individual can influence elections – in other words, taxpayers should not be forced to subsidize a corporation’s or person’s political activity.

AFP organized rallies, canvassing, phone banks, and bus tours to promote Walker’s reelection. Starting a week before the election, the group kicked-off the “A Better Wisconsin Bus Tour” and visited ten Wisconsin cities before concluding the tour three days before the election in Racine, where Walker’s race and that of a state senator were particularly close. AFP’s Illinois arm bused-in out-of-state residents to meet up with the rally and canvass Racine neighborhoods to “make our voices heard in support of the Wisconsin reforms.” Attendees were charged only \$5 for a round-trip bus ticket with lunch and dinner provided. (By comparison, a round-trip commercial bus ticket from Racine to Chicago would cost \$47, lunch, dinner, and politics not included.)

AFP also boasted that it flew-in 70 paid staff members for the effort, and recruited students and others to call voters on AFP-provided cell phones (dubbed “Freedom Phones”) and to canvass neighborhoods. Other AFP arms across the country organized “phone banks for patriots” to make phone calls to tell Wisconsin residents to “support the Wisconsin reforms” before the election. All these supposedly non-electoral activities stopped once Walker won the race.

AFP does have a (c)(4) wing which can engage in a limited amount of “independent expenditures,” in the aftermath of the *Citizens United* decision, but based on Hilgemann’s repeated denials that AFP was doing so, it is not clear if AFP actually classified the expenses for the canvassers, bus tours, and phone banks under the 501(c)(3), which gives a tax write-off to donors, or its 501(c)(4). What is clear is that it disclosed no independent or electioneering expenditures to the state, even though David Koch’s right-hand man who manages AFP’s daily activities, Tim Phillips, told CNN the group spent a total of \$10 million supporting Walker in Wisconsin. **AFP refused to disclose its donors or report expenditures.**

Citizens for a Strong America



In addition to tracking AFP in Wisconsin and other states, the Center for Media and Democracy also identified another group spending to influence an election in the state that was linked to AFP staff.

That group, called “Citizens for a Strong America” (CSA), spent over \$200,000 on ads in Wisconsin’s Supreme Court race, but as the

Center for Media and Democracy documented, its address of “834 Park Avenue #306” in Beaver Dam, Wisconsin, was nothing more than a drop box at a UPS Store. CSA ran attack ads about Joanne Kloppenburg in her race against David Prosser, a judge and former Republican state legislator.

When the ads were run, CSA listed no information about its leaders, employees, or funders on its website, citizensforastrongamerica.net. Its contact information was a free Google mail account: citizensforastrongamerica@gmail.com. Its website name was purchased by John W. Connors of Milwaukee, whose job at Koch’s Americans for Prosperity was described as grassroots campaigns and marketing (his work email address routed to @afphq.org). CSA’s website’s domain registration listed Connors’s own gmail account as the contact and the business address for the domain was 1126 S 70th Street, Suite S420, in Milwaukee, which is in the same building as AFP’s Wisconsin arm, but a different

room number. There is no evidence that AFP orchestrated the group's operations. Connors, whose full-time job is with AFP, is the part-time "president" of CSA, operating in the same building.

But the plot thickens. CSA's address was the same as for another group named "Campaign Now." That group's web address was also registered to Connors. And Campaign Now used the same telephone number that AFP's Wisconsin arm used to register people for buses to support Walker. And yet another group, Watchdog.org, which is associated with the "Franklin Center for Government and Public Integrity" was also registered by Connors, who previously worked for Walker and also was listed as AFP's "Students for Prosperity Director." The Franklin Center is funding state-based "news" outlets that echo the Koch agenda and ideology. Its funders are not disclosed.

Connors has helped coordinate AFP's tea party summits in the state and also helped launch AFP's new "home headquarters kit," an update on AFP's "pyramid-type campaign" that was used by operative Mark Block and then-candidate George W. Bush in Wisconsin to identify voters and get them out to vote for his run for president in 2000.

At the time the ads were run in the Kloppenburg-Prosser race, it was very difficult for the press and citizens to find out who was behind hundreds of thousands reportedly being spent in ads during the election, although they were traced back to UPS mailbox and a staffer for AFP.

Several months after Prosser won the election, CSA filed its annual 990 as a 501(c)(4) organization for the year *before* these ads were purchased. Although CSA's expensive attack ads about Kloppenburg focused on a farming case it criticized her for and also falsely claimed she had attacked her opponent for not prosecuting a child molesting priest, CSA told the IRS its charitable mission was "to promote and conduct research on public policies that reduce tax burdens on families, increase public safety, and protect the rights of parents to make decisions about their children's medical, psychological, and educational well-being." In 2010, CSA did give over \$179,000 of its \$378,000 in revenue to the group "Wisconsin Right to Life" (which has been litigating against federal and state election disclosure rules) and it gave over \$50,000 to a group called "Wisconsin Family Action."

To date, there is no public information about who funded CSA in 2011 and who underwrote its ads in the state Supreme Court election. Due to the gap in time between CSA's activities last year and IRS filing deadlines, even the general revenue and expenses of the group for that year are not known. Since CSA ran ads in the Supreme Court race, its website has had no changes for over a year.

In the current regulatory environment, there is almost nothing to prevent a nonprofit group like this from being created and used to hide the identity of donors funding ads to influence elections. What little disclosure there is comes long after the election results are in, and unless watchdog groups are keeping a close eye on such groups, the IRS may never discover the dissonance between the stated mission for which the group received its nonprofit status and its actual activities.

Moreover, under the disarray caused by *Citizens United* in creating a permissive environment for all sorts of shadowy nonprofit groups to run such attack ads, CSA is merely one example of groups operating out of mail dropboxes. **CSA does not disclose its donors or ad expenditures.**

Coalition for American Values

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Wauwatosa, WI 53213
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theupsstorelocal.com
[Write a review](#)



Another group that ran ads before the Wisconsin recall earlier this year was the "Coalition for American Values Action" (CAVA). Last year, CAVA registered as a corporation in Wisconsin under new rules requiring the registration of corporations making independent expenditures here. CAVA's state registration lists its address as 6650 W. State Street, Suite 271, in Wauwatosa on the edge of Milwaukee. It is the address of a UPS Store with mailboxes. CAVA disclosed one other business address to the state.

The name of CAVA's treasurer -- whose address is also listed at the UPS Store -- is Brent Downs. He is also listed as the treasurer a federal PAC linked to CAVA. (He was previously the contact person for the Marquette Chapter of Students for Prosperity, which is the student arm of Koch's Americans for Prosperity, and its address then was listed as the home of AFP's John W. Connors, mentioned above.)

In the PAC's Federal Election Commission filings from June for the prior month, it reported having spent only \$78.63, raising only \$4,265, and having \$16,588 on hand at the end of May.

However, in Wisconsin, CAVA reported spending \$400,080 on ads supporting Scott Walker's reelection during that same period. CAVA reported that all the funds for these ads came from itself in two donations, and made expenditures in the same amounts and on the same days: CAVA reported receiving \$385,300 on May 24 and spending \$385,300 on May 24 (on "Media-Videos"), and receiving and spending \$14,780 on May 30 (on "Media-TV").

The real source of these funds, though, remains secret. The individuals or organizations that gave money to CAVA was not disclosed to any state or federal authority, and the people of Wisconsin are left in the dark about who is really behind these ads.

CAVA told the FEC its address is 119 S Emerson St #231 in Mt Prospect, IL. This is also the address given for CAVA's attorney, James Skyles, in its Wisconsin registration. Skyles is the Director of Operations for the Franklin Center for Government and Public Integrity (which John W. Connors helped in the launch of its Watchdog.org site.) During the recall election, the Franklin Center's Wisconsin operation, the "Wisconsin Reporter," advanced a pro-Walker, anti-union message in its reports.

Further investigation revealed that although CAVA told Wisconsin's elections board that it was also located in Illinois, it is apparently incorporated in Virginia. It incorporated on November 21, 2011, just as circulators in Wisconsin began collecting signatures to trigger the recall of Governor Walker. In Virginia, its registered agent is Matthew Muggerridge, who is also a staff attorney at the anti-union National Right to Work Foundation.

CAVA's ads flooded the airwaves in the final weeks before the election and attracted significant attention by making a unique appeal -- instead of promoting Walker or attacking his opponent, the ads attacked the premise of the recall itself. The ads depict individuals saying they didn't vote for Walker in 2010, yet will vote for him in 2012 because they oppose the recall.

Spending \$400,000 in the Wisconsin media market, over a period of just two weeks, amounted to a lot of ads. These ads, coupled with similar messaging from Governor Walker, proved effective. Exit polls on June 5 showed that sixty percent of voters thought recalls were only appropriate for cases of official misconduct and ten percent thought recall elections should never be held. In contrast, a St. Norbert College/Wisconsin Public Radio poll of voters conducted in November 2011, just as the recall was launched and CAV was created, asked if voters supported using the recall to remove Walker from office. Fifty-eight percent of those surveyed said "yes" and 38 percent rejected the use of the recall to remove the governor. The secretly funded ads appear to have made a difference in the outcome of the election.

Wisconsin voters never knew who was really behind the ads, or that the ads, which talked about recall not being "the Wisconsin way," was funded by secretive out-of-state group. Without knowing who is really behind these ads, voters cannot know whether future legislative or governmental activity favors the funders. Whoever donated over \$400,000 to CAVA to influence the recall election may have viewed their contributions as an investment, and accordingly, could communicate their identity to the politician who benefitted from that investment. If the public does not know who is funding these ads, it cannot hold elected officials accountable if they provide their benefactors a return on their investment that is untraceable. **CAVA's income sources are secret.**

The Iowa Presidential Primary Spending by Nonprofit Groups

In the Iowa presidential primary, an array of nonprofit groups organized under Section 501(c) of the tax code spent millions influencing the outcome of that state's primary and influencing the issues discussed in the primary. None of these groups disclosed their funding or spending.

Although none of the groups active in the Iowa primaries were very transparent about their funding and spending, some information about their activities was available through a review of television ad buys in the Des Moines and Cedar Rapids media markets. Compiling that data involved a site named "IowaPolitics" actually going to the four network TV stations in those markets and physically picking up the records, which helped provide some data for this snapshot of 501(c) activity in this crucial primary.

Crossroads GPS

Karl Rove's Crossroads GPS (CGPS) is a 501(c)(4) that spent \$310,000 on ads in Des Moines and Cedar Rapids between June 28 and December 27, 2011. CGPS ran three so-called "issue" ads in summer of 2011 attacking President Obama, and two ads starting in October 2011 attacking both Obama and conservative Democrat Rep. Leonard Boswell for supposedly being too supportive of Obama. CGPS ran another ad in December attacking Obama about Solyndra.

Although this is a drop in the bucket compared with CGPS' anticipated spending in the general election, it spent more than any other non-candidate group. And, as noted earlier, its donors are not disclosed. So, for example, it is not known whether the ads attacking the President on solar energy are funded in part by corporations or CEOs with a financial interest in competition with solar energy, such as oil and gas companies that have long opposed federal investments in solar energy while zealously defending their own tax subsidies. **CGPS does not disclose its donors and did not disclose these expenditures.**

Citizens United

"Citizens United" is a 501(c)(4) that spent hundreds of thousands in Iowa in the run-up to the primary. Its president David Bossie is reportedly a friend of then-candidate Newt Gingrich.

According to ad buy records, Citizens United spent \$29,600 in Des Moines and Cedar Rapids on ads that ran between July 25 and July 30. The group reportedly had spent a total of \$75,000 on anti-Obama TV ads, as of December 2. The group also ran :30 ads in late December featuring Newt Gingrich and promoting a 2009 Ronald Reagan documentary Gingrich had produced. The ad does not mention the election or Gingrich's candidacy. In the ad, Gingrich says, "[Reagan's] rendezvous with destiny is a reminder that we all have a similar rendezvous, and that together, we can create a better future for America." According to Politico, the ad reportedly cost \$250,000.

It also promoted its latest movie, "The Gift of Life," which reportedly spurred then-candidate Rick Perry to announce that he was changing his position to oppose the option of abortion if a woman becomes pregnant from rape or incest. (Citizens United's prior election-time movies focused on candidates, like Hilary Clinton.) **Citizens United's donors and its total expenditures in Iowa are secret.**

Strong America Now

"Strong America Now" (SAN) is a 501(c)(4) organization that claims not to support any particular candidate and is focused on advocating that government adopt a particular approach to cutting waste. However, in November 2011 the group's founder created a Super PAC with the same name to support Gingrich's candidacy.

During the Ames straw poll in August, SAN bussed people to the straw polls and held parties, spending \$60,000 to buy tent space and the names of previous caucus-goers and straw poll voters. The group then sent 75,000 candidate "report cards" in December 2011 rating candidates and mailed caucus videos to likely caucus-goers. SAN also spent around \$73,400 in the Des Moines and Cedar Rapids markets for 190 ads it ran between February and June 2011. These ads did not name President Obama or any of the Republican candidates were called "Our Debt & Our Future and promoted its cutting government waste. **The SAN (c)(4) does not disclose its donors and did not report its spending to influence the primary.**

American Petroleum Institute

The American Petroleum Institute (API) is a 501(c)(6) trade association funded by oil and gas interests. Like nonprofit groups organized under Section 501 (c)(3) and (c)(4) of the tax code, it is not required to disclose its funding or spending. Unlike a (c)(3), however, donations to it are not tax-deductible.

API did not endorse any candidate in the Iowa primary or any other primary state, but it did invest significant amounts of money to influence opinion about oil and gas interests, which is a precursor to what is likely to be heavy advertising in the general election for the White House. For example, API commissioned a poll in November purporting to show Iowa voters want domestic energy development. It commissioned another poll in March claiming Iowa voters oppose new oil and natural gas taxes.

API also formed the “Iowa Energy Forum,” a corporate front group, some time before June, which according to Think Progress and the Des Moines Register, planted people in Iowa forums and candidate events to ask questions to candidates about domestic energy production. The IEF sponsored lectures at Iowa State University with API chief economist John Felty, who claimed that gas companies don't get oil subsidies (which was rebutted by the Iowa Renewable Fuels Association). Their lecture in May was attended by Gov. Terry Branstad. API/IEF also sponsored a lecture in November with API's John Felty called "Energizing America: Facts for Addressing Energy Policy.”

Another API front group “Energy Citizens,” which appears to be a 501(c)(4) nonprofit, also sent staffers to the Ames straw poll and provided an air-conditioned tent with music, food and entertainment, and provided free bus rides and free tickets to the straw poll.

According to ad data, API spent around \$93,000 on ads in Des Moines and Cedar Rapids between March and October 2011. It is not known whether they ran more ads after October. The group also gave \$100,000 directly to the Iowa Republican Party. **Although it is possible to discover which corporations are affiliated with API, it does not affirmatively disclose its member corporations or the amounts they generally provide.**

Coalition for American Jobs

Like API, the Coalition for American Jobs (CAJ) is a 501(c)(6) trade association, but it is not specific about what industries it represents. According to the group's website, it “represent(s) American businesses, industries and others concerned about the impact of potential EPA action on job creation.” CAJ is reportedly supported by chemical and oil lobbies.

Like API, CAJ appeared focused on shifting the terms of the debate rather than supporting any particular primary candidate. For example, CAJ spent \$56,650 on a :30 tv ad that ran near the Ames straw poll in mid-August on several stations in Des Moines, Cedar Rapids, and Waterloo. “In a rush to regulate, the EPA wants to impose unnecessary ozone rules – government regulations that will cost business up to \$90 billion a year and threaten manufacturing and construction jobs in nearly every county in the country. Call today, and tell President Obama America needs jobs, not more government regulation,” over an on-screen phone number. Other reports say CAJ spent around \$75,000 on ads in Iowa. **CAJ does not disclose its donors and did not disclose its ad expenditures.**

The U.S. Chamber of Commerce

The country's most politically active 501(c)(6) trade association, the U.S. Chamber of Commerce, spent \$59,700 on 121 TV ads that ran between late September and late November. One ad touts Rep. Tom Latham's stance against President Obama's policies of “bigger government and higher taxes.” Viewers are told to call Tom Latham and “tell him to keep fighting for Iowa jobs.” **It is anticipated that the Chamber will spend millions more in this year's general election and it does report some of its election spending to the FEC.**

Coalition to Protect Patient's Rights

The Coalition to Protect Patient's Rights (CPPR) is a 501(c)(4) nonprofit formed in 2009 to oppose federal health care reform. It is managed by the infamous astroturf lobbying firm DCI Group. Exactly which healthcare, insurance, or pharmaceutical interests fund it are unknown.

The group spent \$10,650 on ads that ran between August 16 and August 22 in Cedar Rapids and Waterloo. The ads say: "After cutting \$500 billion from Medicare, the president's health care law created a new board of 15 unelected bureaucrats. Unaccountable -- like a Medicare IRS, with the power to cut payments to doctors, and deny seniors care to pay for more wasteful Washington spending. Tell Washington: bureaucrats shouldn't have the power to deny seniors care" with a phone number on-screen. This was part of a reported seven-figure national ad buy. **CPPR does not disclose its donors or report expenditures on ads like these.**

Know Your Care/Protect Your Care

Know Your Care (KYC) is a 501(c)(3) and Protect Your Care (PYC) is a 501(c)(4), which are a pro-health reform group that was also active in Iowa. KYC ran :30 ads called "Bagel" in mid-August, around the time of the Ames straw poll and GOP debates, touting the benefits of President Obama's health care plan. Politico reported that the ad cost five-figures to run in the Des Moines market, but the IowaPolitics analysis of ad buys found only \$16,636. The ad was reportedly accompanied by "saturation" level online ads in Des Moines and Ames. PYC reportedly had staffers on-the-ground in Iowa in advance of the Ames straw poll, and distributed a memo highlighting each of the GOP candidates' position on health care (and particularly the individual mandate). **KYC/PYC do not disclose their donors or report ad expenditures.**

Partnership to Protect Medicare

The 501(c)(4) Partnership to Protect Medicare (PPM) claims to fight purported cuts to Medicare, and ran a :30 tv ad asserting that "some in Congress want to come between seniors and their doctor, with more cuts to Medicare Part B" and asking viewers to call Rep. Tom Latham (R) and "thank him for protecting seniors at their greatest time of need." PPM spent \$42,440 on 67 ads in Iowa between Nov 5 and November 18. The Iowa ads were part of a multi-million dollar ad buy thanking several Members of Congress for opposing cuts to Medicare Part B. **PPC does not disclose its donors or report its ad expenditures.**