

How Corporations Secretly Move Millions to Fund Political Ads

By [Brad Jacobson](#)

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The Supreme Court's seismic January ruling that corporations are free to spend unlimited amounts of their profits to advertise for or against candidates may have been the latest shakeup of campaign finance – but gaping holes already allow corporations to spend enormous sums without leaving a paper trail, a Raw Story investigation has found. Campaign finance experts confirmed that though disclosure rules remained intact in the new Supreme Court decision, there are effective methods to circumvent them.

Ciara Torres-Spelliscy, an attorney and campaign finance expert at New York University's Brennan Center for Justice, said corporations already effectively end-run campaign finance law by shuffling money through trade associations.

"One of their favorites right now is spending through trade associations," Torres-Spelliscy said.

Trade associations are considered tax-exempt non-profit organizations under US law. While they must report contributions received from other corporations to the Internal Revenue Service, the document itself remains confidential and is not made available to the public.

"Money coming through the trade association doesn't get disclosed," Torres-Spelliscy explained. "You can't tell if it came from particular corporations."

For example, she said, "The disclaimer form is likely to just say, 'This is brought to you by the Chamber of Commerce,' with no extra ability to see behind that."

The Chamber of Commerce is the world's largest trade association representing 300,000 businesses and organizations.

A fellow non-profit that works on campaign finance, the Center for Political Accountability, calls trade associations "the Swiss bank accounts of American politics."

"What was the lesson from Watergate?" Torres-Spelliscy quipped. "Follow the money?"

Health insurers, pharmaceutical companies embrace loophole

Trade associations such as America's Health Insurance Plans (AHIP) and Pharmaceutical Research and Manufacturers of America (PhRMA) have had an enormous impact on the health insurance reform bills pending in Congress. In fact, AHIP was [recently found to have solicited](#) \$10 million to \$20 million from leading health insurance companies — UnitedHealth, Wellpoint, Aetna, Cigna and Humana among them — and funneled it secretly

to the US Chamber of Commerce to underwrite anti-reform attack ads.

Asked about the story, the Chamber's top lobbyist told the reporter, "No comment. We never disclose funding or what we're going to do." The Chamber of Commerce did not respond to a Raw Story request for comment.

Raw Story's 2008 award-nominated investigative series [The Permanent Republican Majority](#) noted that, "Despite its seemingly bipartisan name, the Chamber of Commerce has operated as a pro-Republican powerhouse since the fervently anti-regulation Thomas J. Donahue became president in 1997." Raw's Larisa Alexandrovna and Muriel Kane uncovered, for instance, that the Chamber, under Donahue's leadership, had an indirect role in the defeat and political prosecution of Governor Don Siegelman and in targeting sitting judges in contested state elections.

President of the Center for Political Accountability Bruce Freed told Raw Story that trade associations also use other trade associations in this manner as "blinds for ads" to "launder their money."

"It's a way for the industry to avoid responsibility for those ads," Freed remarked.

Karl Sandstrom, the Center's lead counsel, noted that it isn't only the public that remains in the dark over the "Swiss bank" loophole. He said that when the Center surveyed boards of directors of companies, the majority of them just assumed their businesses contributions supporting political ads were being disclosed.

"It's just almost a working assumption," Sandstrom said.

Most of the boards of directors, he said, were "shocked to learn there is no disclosure."

While these types of contributions prior to the new Court ruling could only be used for "issue ads" — political advertisements that do not expressly advocate for or against a particular candidate — many such ads were often accused of blurring this line and having nearly the same impact as express advocacy ads.

Christian Hillard, spokesman for the Federal Election Commission (FEC), confirmed Tuesday that the FEC has "no authority over issue ads."

Corporate funding of issue ads through trade associations has "no filing requirements with us," he told Raw Story.

New ruling's impact on the trade association loophole

Now that corporations, including trade associations, are free to spend funds on political ads — which cannot be coordinated with a candidate or political party but which expressly advocate the election or defeat of a candidate — the line between funding issue ads and express advocacy ads has been largely erased.

Campaign finance experts expressed grave concern in conversations with Raw Story.

Paul S. Ryan, an attorney and expert in federal election law at the Campaign Legal Center in Washington, D.C., asserted that Congress did not contemplate this new Court ruling when it

wrote the laws for disclosure related to independent expenditures or electioneering communications, because at the time such corporate spending was prohibited. Ryan said that it's imperative that the FEC addresses disclosure requirements pertaining to this decision.

"Take hypothetically a group like the Chamber of Commerce," he explained. "The Chamber collects money from lots of other corporations. So the question becomes: What kind of disclosure are we really going to get when the FEC gets around to promulgating rules to implement this Supreme Court decision?"

"Yes, the Chamber needs to file paperwork with the FEC saying we ran an ad saying Vote for Candidate Smith," he continued. "But does the Chamber need to tell the FEC where it got its money to pay for that ad? And when the FEC adopts its rules to implement this new Supreme Court decision, the FEC will likely say, 'Chamber of Commerce, you only need to tell us where you got your money if that money was given to you specifically designated to run election ads.'"

Ryan and other campaign finance experts told Raw Story this is a simple dodge.

"It's child's play to get around that type of disclosure," Ryan said, adding, "It's unclear whether the Court was being naive or disingenuous" when it touted disclosure provisions during its decision.

He explained that, for example, all the Chamber of Commerce has to do is tell other corporations, "Give us money and we'll make sure it advances your business interests."

"So as long as the donors don't say to the Chamber, 'We're giving you this money to run political ads,' as long as they refrain from saying that, then their identity can continue to be shrouded or hidden from the public."

The Center for Accountability's Sandstrom agreed, saying this type of disclosure "is easily avoided" and adding, "As long as you don't designate it, you won't be disclosed."

The Chamber of Commerce, in fact, argued against any disclosure in the Citizens United case.

"Their first brief filed in Citizens United is on the disclosure issue," Sandstrom said. "They argued that they would raise substantially more money the more they could keep it anonymous."

FEC spokesman Hillard said that the FEC was still examining the impact of the Supreme Court's decision and would not comment on anything pertaining directly to that ruling, including disclosure provisions.

Brad Jacobson is a contributing investigative reporter for Raw Story.

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