

The New Stealth PACs:

Tracking 501(c) Non-Profit Groups Active in Elections



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About Public Citizen

Public Citizen is a 160,000 member non-profit organization based in Washington, D.C. We represent consumer interests through lobbying, litigation, research and public education. Founded in 1971, Public Citizen fights for consumer rights in the marketplace, safe and affordable health care, campaign finance reform, fair trade, clean and safe energy sources, and corporate and government accountability. Public Citizen has six divisions and is active in every public forum: Congress, the courts, governmental agencies and the media. Congress Watch is one of the five divisions.



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Executive Summary

While controversy has shone a spotlight on the activities of Section 527 groups in the 2004 elections, other groups registered under the section of the tax code reserved for social welfare organizations, unions and business leagues have continued to spend millions of dollars to influence the outcomes of elections without oversight or detailed disclosure requirements.

These electorally active groups registered under Sections 501(c)(4), 501(c)(5) and 501(c)(6) of the tax code are able to operate with greater secrecy than other types of organizations, such as federally regulated political action committees (PACs) and 527 groups. Section 527 groups take their name from the section of the IRS tax code reserved for political organizations. The financial disclosure requirements governing PACs and 527s leave Section 501(c) groups uniquely empowered to receive unlimited contributions from corporations, unions and individuals; to spend the money to influence the outcomes of elections without having to disclose how and on what races it was spent; *and* to shield their donors' identities from view.

The New Stealth PACs: Tracking 501(c) Non-Profit Groups Active in Elections is a first-of-its-kind database created by Public Citizen's Congress Watch that chronicles the activities of 30 groups that have been active since 2000 in influencing elections, the IRS definition of political activity. The database is available at a newly launched Web site, <http://www.stealthpacs.org/>.

Compiling this information was a major task. There are no Federal Election Commission (FEC) disclosure reports to rely on, as there are for PACs, nor is there a database like the one the IRS maintains on the activities and finances of 527 groups. As a result, the information in the *New Stealth PACs* database and this report is incomplete and only begins to tell the shadowy story of the electoral activities of the 501(c) groups.

Public Citizen relied on an assortment of government documents, media reports and academic studies to piece together its database. The database includes information on:

- More than 450 political advertisements and other election-oriented communications disseminated by the New Stealth PACs to affect at least 136 contests from 2000 to 2004;
- Groups' revenues, general expenditures and election expenditures, as reported to the IRS;
- Never-before-published data disclosing the amounts of large contributions to the groups and the percentage of overall revenue groups have received from major donors;
- Key personnel of New Stealth PACs and their political affiliations;
- Funders of the groups, when available; and
- Selected formal affiliates and coalition partners of the groups.

Besides providing a useful resource to the media and the public, Public Citizen hopes this database and report will motivate the IRS and members of Congress to consider much-needed reforms to this shadowy area of campaign finance.

Key findings from analysis of the *New Stealth PACs* database include:

Section I: Overview of the Political Activities and Characteristics of New Stealth PACs

- **At least \$87.8 million was spent by 26 of the 30 501(c) groups studied to influence the outcomes of at least 117 electoral contests in 2000 and 2002.** Public Citizen's \$87.8 million estimate is almost certainly too low, probably by many tens of millions of dollars. This is because spending figures for broadcast ads are typically much higher than is reported in the news media or academic studies. The estimates also exclude the cost of many election activities – such as direct mail, telemarketing and voter identification – for which no spending estimates are available. For example, the database includes estimates for only two of 24 contests in which 60 Plus Association was involved and only one of the 11 races in which the Seniors Coalition was active in 2002.
- **At least 13 of the 30 501(c) groups studied have been active in 2004 contests; two groups have announced plans to spend more than \$40 million each by November.** Two of the biggest players, the AFL-CIO and the U.S. Chamber of Commerce, each have reportedly budgeted at least \$40 million to influence elections this cycle. The Chamber has designated Senate Minority Leader Tom Daschle (D-S.D.), who is up for re-election, as its chief target and began a \$400,000 advertising blitz in August. United Seniors Association, which spent an estimated \$13.6 million influencing elections in 2002, has broadcast television advertisements to affect at least 17 contests in 2004, including expenditures of at least \$370,500 to boost the candidacy of one Pennsylvania congressman. The League of Conservation Voters 501(c)(4) division already has spent more than \$1 million to influence elections in 2004, mostly to oppose President Bush. Americans for Job Security, the poster child for electorally active Republican-leaning 501(c) groups, has launched television campaigns in three U.S. Senate contests; the group has spent more than \$700,000 on ads boosting the prospects of Rep. Richard Burr (R-N.C.) against Democrat Erskine Bowles in the race for North Carolina's open Senate seat. Because the Bipartisan Campaign Reform Act (BCRA) prohibits ads depicting candidates within 60 days of a general election from being funded with corporate or union money, many groups may have turned to harder-to-track activities such as voter identification, direct mail, telemarketing and base-voter mobilization.
- **Republican-leaning 501(c) groups outspent Democratic groups 63 percent to 37 percent in the 2000 and 2002 election cycles.** Groups within Public Citizen's study aligned with the Republican Party spent \$55.8 million to influence elections in 2000 and 2002, while Democratic groups spent at least \$32.1 million, according to Public Citizen estimates. The disparity was most pronounced in 2002, when pro-Republican spending outpaced pro-Democratic spending by at least \$25.1 million to \$6.6 million, better than a 3-to-1 ratio. Again, these estimates are most likely far below the amounts that were actually spent.
- **New Stealth PACs are highly partisan.** Though many electorally active 501(c) groups claim to be non-partisan, those attempting to influence elections almost always use most of their resources to help a single party. From 2000 to 2003, 22 of the 27 active groups during

that period exclusively favored candidates from one party. Excluding the primaries, no group favored candidates from one party less than 80 percent of the time.

- **“Grassroots” 501(c) groups are often funded by only a few supporters.** By obtaining never-before-published data showing the amounts of contributions to groups (but not the donors’ names), Public Citizen learned that several purportedly “grassroots” groups received nearly all of their funding from a few big donors. The 60 Plus Association, which claims 225,000 members, received 91.4 percent of its revenue (\$11 million) from a single contributor in 2002, according to its tax form. The United Seniors Association, which claims 1.5 million members, received 79.1 percent of its money – \$20.1 million – from a single donor that same year. America 21, which purports to be an evangelical Christian organization, reported to the IRS that it received 98.3 percent of its funding – \$3.65 million – from a single contributor in 2002. Citizens for a Sound Economy (now known as Freedom Works), which claims 280,000 members, received 78.6 percent of its funding in 2000 and 2002 from an average of 56 donors who gave \$5,000 or more each year.
- **The Pharmaceutical Research & Manufacturers of America (PhRMA) appears to have given nearly \$41 million to four New Stealth PACs in 2002.** By obtaining redacted copies of the IRS forms on which groups report their big contributions, Public Citizen learned that two supposed senior citizens advocacy groups – the United Seniors Association and 60 Plus Association – received contributions of \$20.1 million and \$11 million, respectively, in 2002. PhRMA, the main trade association for the drug industry, reportedly gave “unrestricted educational grants” to both groups in 2002, and both groups disseminated substantial communications promoting PhRMA-favored political candidates that year. Evidence strongly suggests that PhRMA was responsible for the \$31.1 million in contributions. Further evidence suggests that two other organizations promoting PhRMA-favored candidates, the Seniors Coalition and America 21, may have received contributions of \$6 million and \$3.65 million, respectively, from PhRMA. All four groups helped to elect candidates who supported industry-backed Medicare prescription drug legislation. In 2003, Congress passed a landmark Medicare prescription drug law that was favored by PhRMA. It will result in billions of dollars in new business to the drug companies but it blocked the federal government from using its bulk purchasing power to negotiate lower drug prices. The bill also effectively prohibits the “reimportation” of lower-cost prescription drugs from countries such as Canada. This electioneering could have made the difference in the passage of the Medicare prescription drug bill, which passed the House by only five votes.
- **“Qualified Non-Profit Corporations” (QNCs) can evade advertising restrictions immediately before an election.** QNCs are ideological 501(c)(4) groups that do not accept money from corporations or unions. They are able to broadcast ads mentioning candidates right up to Election Day. Under BCRA, other 501(c) and 527 groups are prohibited from running such ads unless they establish separate accounts that don’t include corporate or union money, a far less appealing option than simply drawing funds out of a group’s treasury. If other 501(c) and 527 groups set up the separate accounts, they must report itemized contributions and expenditures to the FEC. QNCs, however, are not generally required to report detailed contributor data. Two Democratic-leaning groups – Planned Parenthood and NARAL Pro-Choice America – are poised to take advantage of their QNC

status in 2004. Another, the League of Conservation Voters, has already made extensive use of its QNC status to oppose President Bush.

Section II: Some New Stealth PACs May Be Violating Their Tax Status and IRS Disclosure Requirements

- **Despite documentation of sizable election expenditures, most 501(c) groups studied report no such expenditures to the IRS.** The IRS requires 501(c) groups to report “political expenditures,” which it defines as spending “intended to influence the selection, nomination, election, or appointment of anyone to a federal, state, or local public office.” But few groups appeared to provide accurate data to the IRS. Of 15 groups disseminating messages in 2000 that appeared intended to influence elections, only five reported any political expenditures to the IRS. Those five groups reported \$11.3 million in political spending to the IRS, whereas Public Citizen estimates that the 10 groups spent at least \$56.4 million. Of 20 active groups in 2002, only four reported any political expenditures. Those four groups reported about \$950,000 in political spending, but Public Citizen estimates the 21 groups spent at least \$31.5 million. The NAACP National Voter Fund and the Planned Parenthood Action Fund stood out as groups that reported substantial political expenditures.
- **One-third of the 30 groups in the studied may have violated the terms of their 501(c) status.** The IRS allows 501(c) groups to engage in substantial activities to influence elections, but these actions may not constitute the groups’ *primary* activity. The lack of accurate disclosure by the groups makes it impossible to draw definitive conclusions. But Public Citizen found that 10 of the 30 groups studied engaged in enough election-related activity relative to their revenues in 2000 and 2002 to raise questions as to whether they violated the terms of their tax status. The groups were: 60 Plus Association, America 21, American Family Voices, Americans for Job Security, the American Taxpayers Alliance, Every Child Matters, the Law Enforcement Alliance of America, the Seniors Coalition, Social Security Choice.org, and United Seniors Association. Eight of these groups overwhelmingly supported Republican candidates. At least one additional group, Citizens United, may be pushing the bounds of its tax status in 2004.
- **At least two organizations financing election activities by 501(c) groups failed to disclose grants to other organizations.** The IRS requires 501(c) groups to disclose “grants & allocations” to other organizations. Yet on its 990 form for 2002, PhRMA failed to report “unrestricted educational grants” it provided to the United Seniors Association and the 60 Plus Association. Likewise, the U.S. Chamber of Commerce did not report a \$2.6 million grant to the American Taxpayers Alliance in 2002 – though the ATA acknowledged receiving the grant on its own tax forms. The Chamber also reportedly funneled money into local judicial contests through groups such as Mississippians for Economic Progress. Neither PhRMA nor the Chamber would explain to Public Citizen why it listed no grants or whether it counted these payments as “lobbying and political” expenditures on its tax forms. If either group failed to categorize their grants as “lobbying and political” expenditures it would raise the possibility that tax-deductible contributions from their members financed the political ads

run by United Seniors Association, 60 Plus Association and the American Taxpayers Alliance. If so, these contributions would amount to a prohibited tax break.

- **Four 501(c) groups have been accused of violating state election laws.** State courts and election boards in at least six states have accused 501(c) groups of illegally influencing elections, either for failing to make proper disclosures or engaging in outright illegal activity. The U.S. Chamber of Commerce has been accused of breaking laws in **Mississippi** and in **Ohio**, where the state election board found that the Chamber actually crossed the “express advocacy” standard. The American Taxpayers Alliance has been accused of breaking laws in **California** and **Illinois**. The Law Enforcement Alliance of America has been accused of breaking laws in **Illinois** and **Pennsylvania**, and is under scrutiny in a **Texas** grand jury investigation into allegedly illegal corporate electioneering activity. The results of the legal challenges have been mixed. The groups often successfully argued that their messages did not satisfy the constitutional test for electioneering, because they did not use “express advocacy.” But these challenges provide additional evidence that the groups have tried to influence elections, even though most of them reported zero “political” expenditures to the IRS.

Section III: Policy Recommendations to the IRS, FEC and Congress for Improving Disclosure of Election Activities by 501(c) Groups

- **The IRS should reiterate to 501(c) groups the distinction between “political” expenditures and “lobbying” expenditures.** The New Stealth PACs database reveals that many electioneering non-profit groups have disregarded the filing requirements of Line 81 on the Form 990, which calls for organizations to declare their expenditures to influence elections. To achieve more accurate reporting of political versus lobbying expenditures, the IRS should republish its longstanding definitions that distinguish between political and lobbying activity, highlight these distinguishing definitions on the appropriate forms, and reiterate the distinction in a newly issued Revenue Ruling.
- **The IRS should add a new line to Form 990 for “candidate-related expenditures.”** Currently, the IRS lacks a bright-line standard to help distinguish sham issue advocacy ads – electioneering communications clearly designed to influence the election or defeat of candidates – from genuine issue advocacy ads. Form 990 should be modified to include a separate category where groups declare the amount of expenditures made for paid communications, distributed beyond the organization’s membership, that depict a formal candidate for public office through electronic means (other than the Internet), print, direct mail and telemarketing (except direct mail and telemarketing conducted primarily to fund the organization’s advocacy and lobbying activities), and that target that candidate’s voting constituency. These candidate-related expenditures may or may not be expenditures intended to influence elections. But the designation of expenditures that depict candidates and target their constituencies will help flag to the IRS those groups that may be conducting substantial communications to affect elections.

- **The IRS should provide a means for reporting transfers and grants among 501(c)(4), 501(c)(5) 501(c)(6) and Section 527 groups.** Funds frequently are transferred between non-profit entities, with one group serving as a fundraising vehicle for another entity, such as a 501(c)(4) transferring money to a 527 organization. While such transfers are permissible as long as the funds are not used for purposes otherwise prohibited for the original non-profit group that raised the funds, they do pose the potential for providing an ever-larger flow of untracked soft money into federal and state elections. To preserve the integrity of both campaign finance law and the tax code, the IRS must provide a better means for tracking transfers among affiliated as well as unaffiliated non-profit entities and enforce its requirement that groups disclose grants to other organizations.
- **The IRS should create a searchable, sortable, downloadable electronic filing and disclosure system for Form 990 filings.** Obtaining the Form 990 for any particular non-profit group is an arduous task, even though these documents are required to be disclosed as public records. A group's Form 990 must be requested in writing from the IRS or the organization or in person at the organization's headquarters. (One organization in the *New Stealth PACs* database, the Law Enforcement Alliance of America, refused to provide its 990 to Public Citizen in violation of the law.) The only effective way to make these records readily available to the public is to require all 501(c) groups recording contributions or expenditures of at least \$50,000 a year to file their 990 forms electronically with the IRS. The IRS should use its electronic disclosure system for 527 groups as a model for also making 501(c) filings easily accessible to the public via the IRS Web site.
- **The FEC should enforce its existing disclosure regulations for Qualified Non-Profit Corporations (QNCs).** FEC regulations place similar disclosure requirements on non-profit groups, including Qualified Non-profit Corporations, however the election agency does not enforce these disclosure requirements for QNCs. This special category of 501(c)(4) organization is, in practice, currently exempted from disclosing contributions unless the gifts are explicitly earmarked for specific electioneering activity. The FEC should place these groups on par with all other non-profit groups that engage in electoral activity. QNCs that make independent expenditures or electioneering communications should be required to report the sources of the contributions used specifically to pay for those political communications as well as their itemized expenditures, as all other non-profit groups must.
- **Congress should amend the tax code to hold those who prepare and file 990 forms reasonably responsible for the accuracy of the reports.** Like preparers of most other filings with the IRS, a tax preparer for a 501(c) should be subject to financial penalties for failure to include the required information or to report the correct information on 990 forms, if the preparer should have reasonably known that such information was incomplete or inaccurate. These penalties should be modest but escalate depending on the degree of neglect or deliberation in the errors.

- **Congress should increase funding for monitoring and enforcement of electioneering of 501(c) organizations by the IRS Exempt Organizations Division.** The Exempt Organizations Division of the IRS, which regulates non-profits, is at a disadvantage compared to other divisions in terms of allocation of resources. It is the one IRS division that does not derive significant funds from fines. As a result, the Exempt Organizations Division is viewed as a minor, cost-inefficient wing of the IRS and is not allocated adequate resources to monitor non-profits and enforce compliance with the tax code. Congress needs to establish an adequate funding mechanism for the Exempt Organizations Division of the IRS to ensure that the tax code does not continue to be a haven for those who want to evade federal election laws.

Introduction: Lost Between Federal Election Law and the Tax Code

Independent political groups have learned that by simply avoiding the magic words of “express advocacy” (e.g., “Vote for Smith”), they can register with the Internal Revenue Service under one of two tax-exempt categories, either Section 527 or Section 501(c), to avoid the reporting requirements and restrictions faced by federally regulated political action committees (PACs).¹ These 501(c) and 527 groups live outside the reach of federal election law, allowing them to use “soft money” – contributions from corporations, unions and wealthy individuals in excess of federal contribution limits – to finance campaign activities provided that they stop short of express advocacy. [See Appendix I: Permissible Activities of Organizations, and Appendix IV: Tax and Legal Terms.]

Before 2000, registering as a 527 group was the evasion of choice for most independent organizations because 527s can devote most, if not all, of their resources to influencing elections. Widely known as “Stealth PACs” a few years ago, 527s became a target of campaign finance reform. Congress approved legislation in 2000 that subjected the financial filings of 527s to public disclosure. Congress further strengthened the 527 disclosure law in 2002, requiring the IRS, among other things, to mandate timely and thorough electronic reporting of 527 groups’ financial activities and to establish a sophisticated Web site that would allow for timely disclosure of 527 groups’ activities.

Now, Sections 501(c)(4), 501(c)(5) and 501(c)(6) of the U.S. tax code provide the last remaining havens for groups that want to influence elections while concealing the identities of their donors and the details of their expenditures. Groups that do this are the New Stealth PACs. (Section 501(c)(3) organizations, commonly known as charities, are not permitted to engage in work to influence elections and are not covered in this study.)

In theory, the freedoms afforded to 501(c) groups carry two drawbacks not faced by 527s: They may have to pay taxes on their electoral expenses, and they may not engage primarily in activities meant to influence elections. In reality, however, many 501(c) groups have enjoyed the best of both worlds by reporting to the IRS that they made zero expenditures to affect elections, often despite strong evidence to the contrary. These reports of zero expenditures have allowed groups to avoid taxes and, in the cases of those organizations that are *primarily* engaged in influencing elections, to avoid detection for violating the terms of their 501(c) status.

Historically, the line on the tax form where the IRS requires groups to report “political” expenditures – spending intended to influence the outcomes of elections – has not received a great deal of attention from 501(c) groups. There appears to be a considerable amount of confusion among non-profit organizations as to what constitutes a political expenditure versus a lobbying expenditure. Moreover, campaign finance lawyers, speaking on background, have told Public Citizen that the IRS has shown little interest in verifying the accuracy of the political expenditure reports, or, for that matter, most other facets of tax-exempt groups’ filings.

While the loss of tax dollars to the U.S. Treasury from the under-reporting of electoral activities by 501(c) groups is likely insignificant, the lack of attention to the reporting requirement has inflicted a far greater public cost. It may have allowed certain electioneering 501(c) groups to violate the “primary purpose” rule, unjustly retaining their 501(c) status while avoiding the disclosure requirements they would face if they were properly classified as 527 groups. Avoidance of these disclosure requirements has given these groups an unfair advantage in their attempts to tilt elections.

In contrast to legitimate issue advocacy groups, Public Citizen’s research found that groups involved in affecting elections often have the most to gain by shielding their donors’ identities. Such highly active groups often masquerade as “grassroots” citizens organizations, with appealing names like Americans for Job Security (AJS), the American Taxpayers Alliance (ATA) and American Family Voices (AFV). Though their names imply they are inclusive membership organizations, evidence suggests these groups (and many others) serve as fronts for powerful special interests that want to remain in the shadows.

AJS, for instance, was seeded with million-dollar contributions from two trade associations in 1998 and has been mum about its contributors’ identities ever since. The ATA has received about \$2 million from electric utilities and at least \$2.6 million more from the U.S. Chamber of Commerce. AFV received at least \$800,000 at its inception from the American Federation of State, County and Municipal Employees (AFSCME). These groups have broadcast scores of political commercials carrying their populist-sounding “paid for by” taglines. The public and the press would have been far better positioned to evaluate the credibility of these groups’ messages if all of their funders’ identities were publicly known.

Public Citizen is requesting that the IRS review its procedures for monitoring and enforcing the tax code when it comes to regulating electioneering activities of 501(c)(4), 501(c)(5) and 501(c)(6) groups. Some of the apparent egregious violations documented in this report for errors and omissions on groups’ 2000 and 2002 990 forms may warrant enforcement actions. However, the major purpose of this report is to recommend regulatory and statutory reforms based on the problems we found. Therefore, we urge the IRS to focus on the nature of the problems uncovered and to develop procedures to prevent them in the future.

SECTION I

Overview of the Political Activities and Characteristics of New Stealth PACs

New Stealth PACs Spent At Least \$87.8 Million to Influence Elections in 2000 and 2002

Using a conservative methodology, Public Citizen estimates that 26 of the 30 501(c) groups included in the *New Stealth PACs* database spent at least \$87.8 million to influence the outcomes of 117 elections in 2000 and 2002. [See Figure 1]

The New Stealth PACs spent at least \$56.4 million in 2000 and at least \$31.5 million in 2002. Spending was far lower in 2003 because it was not an election year, and no meaningful aggregate spending data is yet available for 2004. From 2000 to 2004, the 30 groups in the database disseminated at least 462 communications, affecting at least 136 electoral contests.²

Groups were chosen for inclusion in the *New Stealth PACs* database because they demonstrated significant involvement in elections in at least one cycle between 2000 and 2004.³ [See Appendix V: Methodology] But this set of groups is not intended to be all encompassing, nor does the database purport to include all communications by these groups. For these and other reasons, Public Citizen's calculation almost certainly significantly undercounts the actual spending by 501(c) groups to influence elections, probably by tens of millions of dollars.

Aside from the fact that the database does not catch all groups or communications, spending estimates for communications that are chronicled in the database are also sporadic. Of 462 commercials and other election-oriented communications identified in the *New Stealth PACs* database (through Aug. 23, 2004), spending estimates were available in only 249 instances, about 54 percent of the time.⁴ Public Citizen arrived at its calculation of overall expenditures by adding up the costs of individual communications when estimates were available. These figures typically came from news reports or from the Campaign Media Analysis Group (CMAG), an organization that estimates the cost of television advertising buys. Public Citizen's methodology attributed no cost to the roughly 46 percent of communications for which estimates were unavailable. While cost estimates were often available for television ads and sometimes for radio ads, they were almost never available for direct mail and telemarketing messages. Public Citizen's estimates of overall spending are further depressed because CMAG only estimates the price of buying airtime, ignoring production costs and other administrative expenses. (In a few cases, Public Citizen was able to estimate a group's overall electoral spending for a given year without relying on the "sum-of-the-parts" technique of adding up the cost of individual communications.)

In contrast to Public Citizen's finding that 26 groups spent at least \$87.8 million on election activities in the 2000 and 2002 election cycles, the groups reported only \$12.2 million in political activities to the IRS. In fact, of 26 groups that apparently conducted election activities in 2000 and 2002, only seven reported any such activities to the IRS.

Figure 1

Estimated Minimum Spending on Electoral Activities by 501(c) Groups, 2000 and 2002

Group Name	2000 Public Citizen Estimate*	2000 Reported Political Spending**	2002 Public Citizen Estimate*	2002 Reported Political Spending**
60 Plus Association	N/A	\$0	\$35,232 ⁵	\$0
AFL-CIO	\$8,725,510 ⁶	\$1,912,529	\$3,601,000 ⁷	\$249,269
Alliance for Retired Americans	--	--	\$1,000,000 ⁸	\$71,000
America 21	N/A	\$0	N/A ⁹	\$0
American Family Voices	\$630,000 ¹⁰	\$0	N/A	\$0
American Taxpayers Alliance	N/A	\$0	\$2,135,000 ¹¹	\$0
Americans for Job Security	\$10,658,386 ¹²	\$0	\$5,207,522 ¹³	\$0
Americans for Tax Reform	\$4,034,848 ¹⁴	\$0	N/A	\$0
Brady Campaign	N/A	\$0	\$18,000 ¹⁵	\$0
Business Roundtable	\$2,962,192 ¹⁶	\$0	\$120,890 ¹⁷	\$0
Citizens for a Sound Economy	N/A	\$0	\$65,000 ¹⁸	\$0
Citizens United	N/A	\$0	N/A	\$0
Every Child Matters	--	--	\$250,000 ¹⁹	\$0
Grassfire	--	--	--	--
Law Enforcement Alliance of America	\$43,050 ²⁰	\$43,050	\$3,595,225 ²¹	N/A
League of Conservation Voters	\$1,153,111 ²²	\$0	276,802 ²³	\$0
MoveOn.org	N/A	\$0	\$139,570	\$139,570
NAACP National Voter Fund	\$7,763,052 ²⁴	\$7,763,052	N/A	\$0
NARAL Pro-Choice America Inc.	\$6,081,184 ²⁵	\$0	\$621,470 ²⁶	\$0
National Education Association	\$0 ²⁷	\$0	\$0 ²⁸	\$0
National Pro-Life Alliance	\$2,608 ²⁹	\$0	\$50,000 ³⁰	\$0
National Rifle Association	\$2,000,000 ³¹	\$230,000	N/A	\$0
National Right to Work Committee	\$1,000,000 ³²	\$0	\$30,000 ³³	\$0
Planned Parenthood Action Fund	\$1,304,897 ³⁴	\$1,304,897	\$490,041 ³⁵	\$490,041
Progress for America	--	--	\$0 ³⁶	\$0
Seniors Coalition	N/A	N/A	\$53,000 ³⁷	\$0
Sierra Club	\$0 ³⁸	\$0	\$0 ³⁹	\$0
Social Security Choice.org	--	--	\$188,998 ⁴⁰	\$0
United Seniors Association	N/A	\$0	\$13,600,000 ⁴¹	\$0
U.S. Chamber of Commerce	\$10,000,000 ⁴²	\$0	N/A ⁴³	\$0
Total	\$56,358,838	\$11,253,28	\$31,477,750	\$949,880

Source: Public Citizen analysis of data contained in the *New Stealth PACs* database.

Note: Spending by organizations not in existence during a reported period is represented with a dash. Where no data was available for existing groups, "N/A" is entered. Where Public Citizen had reason to believe an organization did not participate in activities intended to influence the outcomes of elections, "\$0" was entered in the "Public Citizen Estimate" columns.

*Reflects the highest documented figure for expenditures that appeared intended to influence elections.

**As reported by groups to the IRS on their 990 forms.

A Baker's Dozen of 501(c) Groups Are Active in 2004

Much speculation has focused on how independent groups, including 501(c)s, will be affected by BCRA, which prohibits groups from using money from corporations or unions to broadcast ads (termed "electioneering communications") that mention federal candidates and target the candidates' voting constituencies in the 60 days preceding a general election or the 30 days before a primary or convention.

Among the possibilities:

- Groups could time ads for windows not covered by BCRA.
- Groups that previously broadcast television and radio ads close to the election could choose to reach voters through print ads, direct mail, telemarketing and other methods that are not restricted by BCRA.
- Groups could establish separate accounts of contributions exclusively from individuals to pay for broadcast messages to influence elections that name federal candidates right up to Election Day.
- Groups could satisfy the criteria defining Qualified Non-profit Corporations (QNCs) and register as such with the FEC.
- Groups could shift their emphasis to state races.
- Groups could find creative ways to run ads without mentioning candidates.
- Groups could end up being less involved in elections.

At least 13 501(c) groups have been active through August 2004, and at least three groups are poised to take advantage of their QNC status to remain on the air through Election Day. Two groups, the AFL-CIO and U.S. Chamber of Commerce, have claimed they will each spend more than \$40 million on the 2004 elections.⁴⁴

The active groups this year include:

AFL-CIO

A 501(c)(5), the AFL-CIO has broadcast at least two ads attacking President Bush so far in 2004. One ad accused Bush of standing with his corporate backers while "defending tax breaks that actually reward corporations for shipping American jobs to other countries."⁴⁵ The other juxtaposed Bush's plan for a human mission to Mars with the needs of families, such as jobs, health care and money for college.⁴⁶ The AFL-CIO has reportedly budgeted \$44 million for the 2004 election cycle.⁴⁷

American Family Voices

A 501(c)(4), AFV released a television advertisement in July that compared President Bush to a carnival barker.⁴⁸ AFV also spent at least \$300,000 on an ad in early 2004 alleging that Halliburton Corp. has received sweetheart deals from the U.S. government while budgets for education, health care and veterans' benefits have been slashed across the country. The ad quotes a joke by David Letterman: "President Bush is asking Congress for \$80 billion to rebuild Iraq. And when you make out the check, remember there's two L's in Halliburton."⁴⁹

Americans for Job Security

A 501(c)(6), AJS has broadcast television advertisements in at least three U.S. Senate races so far in 2004. AJS attacked Democrat Inez Tenenbaum in her South Carolina match-up against Republican Rep. Jim DeMint.⁵⁰ AJS ran at least three separate spots attacking former Alaska Gov. Tony Knowles, a Democrat who is seeking to defeat Republican Sen. Lisa Murkowski.⁵¹ The group also reportedly spent \$700,000 on commercials praising Republican Rep. Richard Burr, who is opposing Democrat Erskine Bowles for a U.S. Senate seat in North Carolina.⁵² (AJS also ran an attack ad against Democratic presidential candidate John Edwards before the primaries. Public Citizen categorizes the communication as a 2004 ad because it concerned a contest that will be decided this year.)

American Taxpayers Alliance

A 501(c)(4), the ATA broadcast at least two separate television spots praising judicial candidates in Alabama's Republican primary.⁵³

Citizens for a Sound Economy

A 501(c)(4), CSE targeted 25,000 voters with mailings in the final days before the Republican primary in Pennsylvania, when Rep. Pat Toomey challenged incumbent Sen. Arlen Specter. The communications contained pro-Toomey messages aiming to "educate likely Republican primary voters about the key differences between" Specter and Toomey.⁵⁴ (CSE recently merged with Empower America to form a new group called Freedom Works.)

Citizens United

A 501(c)(4), Citizens United broadcast a television commercial targeting Democratic nominee John Kerry: "Another rich, liberal elitist from Massachusetts who claims he's a man of the people. Priceless." The ad ran in at least 10 states.⁵⁵

Grassfire.org

A 501(c)(4), Grassfire broadcast a television commercial accusing Kerry of being extreme on abortion, supporting gay rights, and voting against President Bush's tax cuts and the balanced budget amendment. The ad initially ran in Iowa, more than 30 days before the Democratic caucus.⁵⁶

League of Conservation Voters

A 501(c)(4), LCV broadcast a television ad accusing Bush, "a Texas oilman," of putting the Florida coastline in jeopardy through his energy policies. The LCV Web site includes a page titled "Give Bush The Boot," which says, "LCV is set to launch our most ambitious campaign ever: to defeat George Bush and elect a pro-environment president."⁵⁷ The group also broadcast

ads supporting Democrats Barack Obama, a Senate candidate in Illinois, and Rep. Ben Chandler, who won a seat in Congress from Kentucky during a special election in February 2004.⁵⁸

LCV registered with the FEC as a QNC, giving it permission to disseminate “express advocacy” messages (explicitly calling for the election or defeat of a candidate) and permission to broadcast ads that mention candidates’ names in the 60 days before a general election or in the 30 days before a primary, even without having to comply with full reporting requirements.⁵⁹ BCRA prohibits other independent groups from broadcasting these ads unless they establish separate accounts that do not include money from corporations or unions and they report itemized contributions and expenditures.⁶⁰

Between Feb. 17, 2004 and Aug. 11, 2004, LCV reported to the FEC that it had more than \$1.5 million in independent expenditures to support or oppose candidates for federal office primarily to affect the presidential race, but also including \$87,100 to support Chandler’s cause and more than \$270,000 in expenditures to support Obama.⁶¹ LCV recently informed Public Citizen that it misreported certain expenditures to the FEC that should have been charged to its 527. LCV’s actual independent expenditures through Aug. 11 were between \$1 million and \$1.1 million, the group said.⁶²

MoveOn.org

A 501(c)(4), MoveOn.org broadcast a television commercial criticizing Bush for focusing on the issue of gay marriage rather than on jobs lost overseas, tax cuts for the wealthy, high insurance rates, and the costs of the war in Iraq.⁶³ Another MoveOn ad accused Bush of lying to the public about his decision to go to war in Iraq and called for his censure.⁶⁴ The group said that the gay marriage ad was “partisan,” but disagreed with Public Citizen’s view that the “censure” ad appeared intended to influence the outcome of the presidential election.⁶⁵

NARAL Pro-Choice America

A 501(c)(4), NARAL broadcast a television ad criticizing a statement by Bush adviser Karen Hughes. The ad contended that Hughes had argued that the lessons from the 9/11 attacks were tilting public opinion against the pro-choice position. The ad concluded: “Call President Bush and tell him to stop attacking American women.”⁶⁶ NARAL said it plans to take advantage of its status as a QNC to broadcast ads through Election Day.⁶⁷

Planned Parenthood

A 501(c)(4), Planned Parenthood also announced its intention to register as a QNC and declared plans to carry out an advertising campaign this fall.⁶⁸ QNC status “is just another tool in our arsenal, which I think makes our case even more compelling to those donors who want to help us,” said Planned Parenthood political director David Williams.⁶⁹

Sierra Club

A 501(c)(4), the Sierra Club broadcast radio and television ads accusing the Bush administration of endangering Latin American families;⁷⁰ giving power plants a break on mercury emissions;⁷¹ and relieving polluters of the responsibility “to clean up the mess they leave behind.”⁷²

United Seniors Association

A 501(c)(4), United Seniors Association has broadcast advertisements in at least 17 contests praising members of Congress, many in tight re-election fights, who voted for the Medicare prescription drug bill in fall 2003.⁷³ These ads included expenditures of at least \$370,500 in just one congressional district, which praised Rep. Jim Gerlach (R-Pa.).⁷⁴ [See Figure 2]

U.S. Chamber of Commerce

A 501(c)(6), the Chamber said in February that it planned to spend \$40 million on the 2004 elections to defeat candidates who opposed its agenda, with a No. 1 target of knocking off Senate Minority Leader Tom Daschle (D-S.D.).⁷⁵ The Chamber launched a \$400,000 ad campaign in mid-August that accused Daschle of jeopardizing South Dakotans' access to health care.⁷⁶ The Chamber also broadcast an ad praising Rep. Jim DeMint (R-S.C.) in his campaign for the U.S. Senate.

Figure 2

501(c) Election Activities By State, 2004

States	Groups
"Battleground States" **	Citizens United: TV ad criticizing former President Clinton's handling of terrorism, June 2004.
Alabama	American Taxpayers Alliance: TV ad supporting Republican judicial candidates Mike Bolin and Patti Smith, June 2004.
	United Seniors Association: TV ad praising Republican U.S. Rep. Mike Rogers for supporting Medicare prescription drug bill, August 2004.
Alaska	Americans for Job Security: TV ad critical of Democratic U.S. Senate candidate Tony Knowles, July 2004.
Arizona	Citizens United: TV ad criticizing Sen. John Kerry as an elitist, March 2004.
	League of Conservation Voters: TV ad praising Sen. John Kerry's environmental record, February 2004.
Colorado	Citizens United: TV ad criticizing Sen. John Kerry as an elitist, March 2004.
	United Seniors Association: TV ad praising Republican U.S. Rep. Bob Beauprez for supporting Medicare prescription drug bill, August 2004.
Connecticut	United Seniors Association: TV ad praising Republican U.S. Rep. Rob Simmons for supporting Medicare prescription drug bill, August 2004.
Florida	League of Conservation Voters: TV ad criticizing President Bush on for alleged lax protection of Florida's coastline, May 2004.
	Sierra Club: TV ad aired in Tampa criticizing President Bush for allowing additional mercury emissions from power plants, January 2004.
Georgia	United Seniors Association: TV ads praising Democratic Rep. Jim Marshall and Republican Rep. Max Burns for supporting Medicare prescription drug bill, August 2004.

States	Groups
Illinois	League of Conservation Voters: TV ad supporting Democratic U.S. Senate candidate Barack Obama, March 2004.
	United Seniors Association: TV ad praising Republican U.S. Rep. Phil Crane for supporting Medicare prescription drug bill, August 2004.
Indiana	United Seniors Association: TV ad praising Republican U.S. Rep. Chris Chocola for supporting Medicare prescription drug bill, August 2004.
Iowa	AFL-CIO: TV ad criticizing President Bush, May 2004.
	American Family Voices: TV ad criticizing President Bush for alleged sweetheart deals for Halliburton, August/September 2003.
	Citizens United: TV ad criticizing Sen. John Kerry as an elitist, March 2004.
Kentucky	League of Conservation Voters: TV ad supporting Democratic U.S. Rep. Ben Chandler and criticizing Republican challenger Alice Forgy Kerr, February 2004.
Maryland	Citizens United: TV ad criticizing Sen. John Kerry as an elitist, March 2004.
Michigan	League of Conservation Voters: TV ad criticizing Republican U.S. House candidate Brad Smith, August 2004.
	Sierra Club: TV ad aired in Detroit criticizing President Bush for allowing additional mercury emissions from power plants, January 2004.
Missouri	AFL-CIO: TV ad against President Bush, May 2004
	American Family Voices: TV ad criticizing President Bush for alleged sweetheart deals for Halliburton, August/September 2003.
	United Seniors Association: TV ad praising Republican U.S. Rep. Sam Graves for supporting Medicare prescription drug bill, August 2004.
New Hampshire	American Family Voices: TV ad criticizing President Bush for alleged sweetheart deals for Halliburton, August/September 2003.
New Mexico	Citizens United: TV ad criticizing Sen. John Kerry as an elitist, March 2004.
	United Seniors Association: TV ads praising Republican U.S. Reps. Heather Wilson and Steve Pearce for supporting Medicare prescription drug bill, August 2004.
New York	MoveOn.org: TV ad aired in New York City calling for censure of President Bush over his alleged false claims on Iraqi weapons of mass destruction, March 2004.
	Sierra Club: TV ad aired in New York City criticizing President Bush for allowing additional mercury emissions from power plants, January 2004.
North Carolina	Americans for Job Security: TV ad supporting Republican Senate candidate Richard Burr, June 2004.
	United Seniors Association: TV ad praising Republican U.S. Rep. Robin Hayes for supporting Medicare prescription drug bill, August 2004.
North Dakota	United Seniors Association: TV ad praising Democratic U.S. Rep. Earl Pomeroy for supporting Medicare prescription drug bill, August 2004.
Ohio	Sierra Club: TV ad aired in Columbus criticizing President Bush for allowing additional mercury emissions from power plants, January 2004.

States	Groups
Oregon	Sierra Club: TV ad aired in Portland criticizing President Bush for allowing additional mercury emissions from power plants, January 2004.
	United Seniors Association: TV ad praising Republican Democratic U.S. Rep. David Wu for supporting Medicare prescription drug bill, August 2004.
Pennsylvania	Citizens for a Sound Economy: Mail/telephone/e-mail campaign supporting Republican senatorial primary candidate Rep. Pat Toomey and criticizing GOP incumbent Sen. Arlen Specter, April 2004.
	Sierra Club: TV ad aired in Pittsburgh criticizing President Bush for allowing additional mercury emissions from power plants, January 2004.
	United Seniors Association: TV ad praising Republican Rep. Jim Gerlach for supporting Medicare prescription drug bill, August 2004.
South Carolina	Americans for Job Security: TV ad criticizing Democratic Senate candidate Inez Tenenbaum, July/August 2004.
	U.S. Chamber of Commerce: TV ad supporting Republican U.S. Rep. Jim DeMint in GOP primary, May 2004.
South Dakota	U.S. Chamber of Commerce: TV ad criticizing Democratic Sen. Tom Daschle for opposing medical malpractice reforms, August 2004.
Tennessee	Citizens United: TV ad criticizing Sen. John Kerry as an elitist, March 2004.
	United Seniors Association: TV ad praising Democratic Rep. Lincoln Davis for supporting Medicare prescription drug bill, August 2004.
Texas	United Seniors Association: TV ad praising Republican U.S. Rep. Lamar Smith for supporting Medicare prescription drug bill, August 2004.
Vermont	Citizens United: TV ad criticizing Sen. John Kerry as an elitist, March 2004.
Utah	United Seniors Association: TV ad praising Democratic U.S. Rep. Jim Matheson for supporting Medicare prescription drug bill, August 2004.
Washington	Citizens United: TV ad criticizing Sen. John Kerry as an elitist, March 2004.
Washington, D.C.	American Family Voices: TV ad criticizing President Bush for alleged sweetheart deals for Halliburton, August/September 2003.
	Citizens United: TV ad criticizing Sen. John Kerry as an elitist, March 2004.
	MoveOn.org: TV ad calling for censure of President Bush over his alleged false claims on Iraqi weapons of mass destruction, March 2004.
Wisconsin	American Family Voices: TV ads against President Bush on sweetheart deals for Halliburton, August/September 2003.
	Sierra Club: Radio ad criticizing President Bush for not cleaning up mercury pollution, April 2004. TV ad aired in Milwaukee criticizing President Bush for allowing additional mercury emissions from power plants, January 2004.

Source: Public Citizen's analysis of data contained in the New Stealth PACs database, as of Sept. 15, 2004.

* "Battleground states" refers to media placements for the presidential race that were placed in states deemed the most competitive.

Republican 501(c) Groups Outspent Democratic Groups 64% to 36% in the 2000 and 2002 Elections

Republican 501(c) groups Public Citizen studied outspent Democratic 501(c) groups in the 2000 and 2002 election cycles by at least \$55.8 million to \$32.1 million, according to Public Citizen estimates.⁷⁷ The disparity was most pronounced in 2002, when pro-Republican spending outpaced pro-Democratic spending by at least \$25.1 million to \$6.4 million – a better than 3-to-1 ratio. [See Figure 3]

Figure 3

Electoral Spending by 501(c) Groups, Republican vs. Democratic, 2000 and 2002

Year	Republican	Democratic
2000	\$30.7M	\$25.7M
2002	\$25.1M	\$6.4M
Total	\$55.8M	\$32.1M

Source: Public Citizen analysis of data contained in the *New Stealth PACs* database as of Aug. 23, 2004.

Electorially Active 501(c) Groups Are Highly Partisan

Of 30 groups in the *New Stealth PACs* database, at least 27 were involved in elections from 2000 to 2003. Each favored one party almost exclusively, with 16 favoring Republicans and 11 favoring Democrats. No group supported candidates from its preferred party less than 80 percent of the time. New Stealth PACs backed Republican candidates 185 times and Democrats 109 times. [See Figure 4]

Figure 4

501(c) Groups Active in the Most Electoral Contests, 2000-2003

Group	Number Of Contests Influenced	Times Favoring Republican Candidates*	Times Favoring Democratic Candidates*
U.S. Chamber of Commerce (R)	33	27	0
AFL-CIO (D)	31	0	31
United Seniors Association (R)	25	22	3
60 Plus Association (R)	24	24	0
Business Roundtable (R)	23	23	0
Sierra Club (D)	22	1	19
America 21 (R)	18	18	0
Americans for Job Security (R)	13	13	0
NARAL Pro-Choice America Inc. (D)	13	0	13
Seniors Coalition (R)	11	11	0
Alliance for Retired Americans (D)	11	0	11
Planned Parenthood Action Fund (D)	11	0	11
League of Conservation Voters (D)	10	2	8
Americans for Tax Reform (R)	8	7	0
Law Enforcement Alliance of America (R)	8	6	0
National Pro-Life Alliance (R)	7	7	0
American Taxpayers Alliance (R)	6	6	0
National Right to Work Committee (R)	6	6	0
Citizens for a Sound Economy (R)	5	5	0
Social Security Choice.org (R)	4	4	0
Brady Campaign (D)	3	0	2
National Rifle Association (R)	2	1	0
Progress for America (R)	1	1	0
American Family Voices (D)	1	0	1
Every Child Matters (D)	1	0	1
NAACP National Voter Fund (D)	1	0	1
National Education Association (D)**	9	1	8
Totals	307	185	109

Source: Public Citizen analysis of data contained in the *New Stealth PACs* database, as of Aug. 23, 2004.

*Republican and Democratic totals do not include activities in primaries or in non-partisan judicial contests.

** National Education Association messages were not included in this study because the IRS has ruled that 501(c) groups are not required to declare partisan communications with members as “political” expenditures. Public Citizen learned of nine cases in which the NEA sent messages supporting candidates to its members. In eight instances, the union supported a Democrat, in one a Republican.

Among groups in Public Citizen’s database, there have been seven Republican groups and six Democratic groups conducting election-oriented activities so far in the 2004 election cycle. [See Figure 5]

Figure 5

501(c) Groups Active in the Most Electoral Contests, 2004

Group	Number of Contests Influenced	Contests in Which Group Favored Republican Candidate*	Contests in Which Group Favored Democratic Candidate*
United Seniors Association (R)	17	12	5
Americans for Job Security (R)	4	3	0
League of Conservation Voters (D)	4	0	3
American Taxpayers Alliance (R)	2	0	0
U.S. Chamber of Commerce (R)	2	1	0
AFL-CIO (D)	1	0	1
American Family Voices (D)	1	0	1
Citizens for a Sound Economy (R)	1	0	0
Citizens United (R)	1	1	0
Grassfire.org (R)	1	1	0
MoveOn.org (D)	1	0	1
NARAL Pro-Choice America Inc. (D)	1	0	1
Sierra Club (D)	1	0	1
Totals	37*	18	13

Source: Public Citizen analysis of data contained in the *New Stealth PACs* database, as of Aug. 23, 2004.

*Republican and Democratic totals do not include primaries.

** Totals reflect instances of groups involved in the same contests, and thus exceed total number of contests in which 501(c)s have been involved.

Grassroots or Hired Guns? Many 501(c) Groups Are Funded by a Few Major Donors

A significant number of groups included in the *New Stealth PACs* database portray themselves as large membership organizations. Yet their annual filings with the IRS show they have received substantial portions – sometimes nearly all – of their funding from a relatively small number of major donors who each gave \$5,000 or more.^a The \$5,000 minimum reporting threshold required by the IRS is significant because it is equal to the maximum that an individual can give to a federally regulated PAC.

For example, eight groups in 2002 received 75 percent or more of their revenue in contributions of \$5,000 or more, as did four groups in 2000. Six groups have reported receiving 90 percent or more of their revenue from major donors in a given year: 60 Plus Association, American Family Voices, America 21, the NAACP National Voter Fund, Progress for America and Social Security Choice.org.

The groups on the following few pages typically portrayed themselves as grassroots, broad-based membership organizations, yet they collected most of their money from relatively few donors. [See also Figure 6 and Figure 7.]

^a 501(c) organizations are required to disclose to the IRS all individuals or organizations that contributed a total of \$5,000 or more to them in a year. Identities of major donors and the amounts contributed are reported on Schedule B of a 501(c) group's Form 990. While the IRS does not make the names of contributors listed on Schedule B publicly available, it does release sanitized copies showing the amount given by each \$5,000-plus contributor. The federal regulation on the matter reads: "The amounts of contributions and bequests to an organization shall be available for public inspection unless the disclosure of that information can reasonably be expected to identify any contributor (Title 26, Ch. 1, Sec. 301.6104(b)-1). Many organizations did not respond affirmatively to Public Citizen's request for redacted copies of their Schedule B information; in many of those cases, Public Citizen was able to obtain copies of the forms from the IRS.

Instructions for Schedule B call for organizations to list "every contributor who, during the year, gave the organization, directly or indirectly, money, securities or any other type of property aggregating \$5,000 or more for the year." The form defines contributors as "individuals, fiduciaries, partnerships, corporations, associations, trusts, and exempt organizations." In other words, Schedule B is supposed to list only persons or entities that gave more than \$5,000, and the amount each one gave. The instructions do not ask organizations to enter a figure for aggregate contributions from donors who gave less than \$5,000, but some organizations appear to have used a line item on their Schedule B to do this. The NRA, for instance, confirmed that annual notations on its Schedule B of single contributions in excess of \$40 million actually represented the aggregation of small contributions from thousands of contributors. When doubt existed as to whether a large contribution reported on an organization's Schedule B might represent an aggregate sum of donations from multiple contributors, Public Citizen contacted the group. The groups' responses, if any, are noted in the footnotes on the following pages.

60 Plus Association

How the group portrays itself: The group's president told a medical publication that 60 Plus had 225,000 members.⁷⁸

How the group is funded: 60 Plus is reported to have received an "unrestricted educational grant" in 2002 from PhRMA, the trade association for the brand-name pharmaceutical industry, although the amount of the grant was never made public.⁷⁹ The group reported to the IRS that it received 91.4 percent of its 2002 revenue, nearly \$11 million, from a single person or organization.^b

America 21

How the group portrays itself: "A not-for-profit organization whose mission is to educate, engage, and mobilize Christians to influence national policy at every level."⁸⁰

How the group is funded: America 21 reported to the IRS that it received 99.9 percent of its 2002 contributions from donors who gave more than \$5,000 each; it received 98.3 percent of its money from a single donor.^c

Citizens for a Sound Economy

How the group portrays itself: "280,000 members ... who have been fighting for lower taxes, less government, and more freedom."⁸¹

How the group is funded: CSE's reports to the IRS indicated that it received 78.6 percent of its funding in amounts of \$5,000 or more from about 56 people, companies or groups each year from 2000 to 2002.⁸²

^b The large contribution reported by 60 Plus Association in 2002 was for \$10,992,033. The uneven number does not sound like a typical amount for a grant, raising the possibility that 60 Plus entered an aggregate total of multiple members' contributions of less than \$5,000 in one cell on its Schedule B. (The contributors' names are redacted on the public copy of the form.) But evidence suggests that 60 Plus did, indeed, receive a single large contribution in 2002. Its revenues in 2000 and 2001 were \$2 million and \$1.9 million, respectively. Its 2002 revenue was \$12 million, an increase of \$10 million, or about 600 percent, over previous years. Such a dramatic increase in revenue from small contributions seems unlikely. The group's president, James Martin, did not respond to an e-mail inquiry from Public Citizen sent on July 28, 2004.

^c Public Citizen obtained America 21's 990 form (along with the Schedule B) from the IRS and obtained a separate copy of America 21's 990 form from the organization, minus the Schedule B. America 21 would neither confirm nor deny its report on Schedule B that it received a contribution from a single person or organization for \$3.65 million in 2002. America 21 President Tom Smith wrote in an e-mail to Public Citizen: "This e-mail is to confirm that America 21 cannot confirm the amounts of the individual donations in 2002. There were errors in the first 990 we filed [with the IRS] that were subsequently corrected by the 990 sent directly to you. I have no idea when you obtained your information from the IRS or whether it is accurate." The "corrected" 990 that Smith said America 21 had sent to Public Citizen did not include the Schedule B, although Public Citizen had requested it from the group. Public Citizen once again requested a redacted copy of America 21's Schedule B in August 2004, but the organization did not respond. Smith's reference to "errors" in the group's earlier submission to the IRS provided no reason to suspect that those errors were on the Schedule B part of the form. Public Citizen has requested a revised version of America 21's 990 form from the IRS.

NAACP National Voter Fund

How the group portrays itself: “Mission is to educate voters on candidates’ stands on civil rights, and increase voter turnout in the African-American community.”⁸³

How the group is funded: The NAACP NVF reported to the IRS that in 2000 it received \$16.6 million from a single contributor, 98.6 percent of its total revenue for that year.⁸⁴

Social Security Choice.org

How the group portrays itself: “A grassroots organization helping citizens spread the word throughout their communities and convey their preferences to members of Congress.”⁸⁵

How the group is funded: Social Security Choice.org received 96.8 percent of its revenue from 16 contributors who each gave \$5,000 or more in 2002, the lone year for which Public Citizen has obtained its tax forms.⁸⁶

Seniors Coalition

How the group portrays itself: “The nation’s fastest growing senior advocacy organization with nearly four million members.”⁸⁷

How the group is funded: The Seniors Coalition reported receiving \$6 million from one major donor in 2002, representing 47.6 percent of its revenue. In 2000, it received a single contribution of nearly \$2.1 million, reportedly from PhRMA.^d

^d Redacted copies of the Seniors Coalition’s Schedule B forms pose a quandary. In 2002, the organization reported receiving eight contributions of \$5,000 or more, the largest for \$6 million and the second largest for \$196,000. The sum of large contributions reported by the Seniors Coalition in 2002 was \$6.6 million out of total “direct public support” of \$11.9 million (ancillary income brought the group’s total revenue to \$12.6 million). Those figures would seem to indicate that the group received \$5.5 million in small contributions (i.e., those below \$5,000 and thus not reported on Form 990). However, in 2000 the Seniors Coalition’s Schedule B reported that nine large contributors combined to give \$12.5 million, precisely the “direct public support” the Seniors Coalition reported on its 2000 Form 990. The largest reported contributor gave \$9.7 million, the second-largest giver gave \$2.1 million. The \$2.1 million gift came from PhRMA, according to a media report. (Source: Bill Hogan, “Pulling Strings From Afar,” AARP Bulletin, February 2003.) The Seniors Coalition also reported \$1.3 million in fundraising expenses for the year 2000. Revenue from fundraising activity (which would have come primarily in the form of small contributions) must have been reflected somewhere on its Schedule B because the entries on the form account for all of the organization’s public support. The most logical conclusion is that the aggregate amount of those small contributions is reflected in the final entry on the 2000 Schedule B, for \$9.7 million. Similarly, in 2001, the Seniors Coalition’s entries on its Schedule B again added up precisely to the sum of the group’s reported direct public support, \$6.8 million. The final entry, for \$6.2 million, again appears to reflect aggregate small-donor contributions. By contrast, as discussed above, the total contributions reported on the group’s 2002 Schedule B did not equal the direct public support reported on the group’s Form 990. The most logical conclusion is that the Seniors Coalition changed reporting methods in 2002, eschewing the improper practice of listing aggregate small contributions on its Schedule B. The Seniors Coalition likely received \$6 million from its largest donor in 2002, as it reported on Schedule B, as well as \$5.5 million in aggregate contributions of under \$5,000, which the group correctly omitted from its Schedule B. If this hypothesis is correct, the Seniors Coalition received annual small contributions, such as membership dues, of \$9.7 million in 2000, \$6.8 million in 2001 and \$5.5 million in 2002. Any other reading of the group’s forms fails to account for \$5.5 million in 2002 revenue. Thus, the Seniors Coalition’s largest contributors likely gave \$2.1 million in 2000, \$184,112 in 2001, and \$6 million in 2002. Significant variations in large contributions would make sense, as such gifts are likely given for special purposes. The decline in 2001 seems plausible, because that was not an election year. Public Citizen left a telephone message with Seniors Coalition Director of Operations Tom Moore outlining the inconsistency in the groups’ forms. He did not respond.

United Seniors Association

How the group portrays itself: A non-profit, non-partisan organization with 1.5 million activists nationwide.⁸⁸

How the group is funded: USA received an “unrestricted educational grant” from PhRMA in 2002.⁸⁹ The group’s 990 form for that year indicates it received \$20.1 million from a single donor, representing 79.1 percent of its total revenue.⁹⁰

Figure 6

501(c) Groups Getting Greatest Share of Revenue from Major Donors, 2002

Group	Revenue	Sum of Contributions \$5,000 or More	Percent of Revenue from Contributions \$5,000 or More	Amount from Largest Single Contributor	Percent of Revenue from Largest Contributor
America 21	\$3,714,651	\$3,710,000	99.9%	\$3,650,000	98.3%
Social Security Choice.org	\$254,068	\$246,002	96.8%	\$50,000	19.7%
Progress for America	\$413,295	\$396,000	96.0%	\$100,000	24.2%
60 Plus Association	\$12,027,390	\$11,084,933	92.0%	\$10,992,933	91.4%
American Family Voices	\$455,758	\$398,418	87.4%	\$100,000	21.9%
United Seniors Association	\$25,396,676	\$20,155,058	79.4%	\$20,100,000	79.1%
Every Child Matters (501)(c)(4)	\$339,975	\$260,000	76.5%	\$245,000	72.1%
League of Conservation Voters	\$2,617,430	\$1,956,180	75.0%	\$475,000	18.1%
Citizens for a Sound Economy	\$3,590,890	\$2,468,270	69.0%	\$415,000	11.6%
Seniors Coalition	\$12,567,306	\$6,556,544	52.2%	\$5,982,638	47.6%

Source: 990 forms, including Schedules B, filed by individual groups with the IRS.

Figure 7

501(c) Groups Getting Greatest Share of Revenue from Major Donors, 2000

Group	Revenue	Sum of Contributions \$5,000 or More	Percent of Revenue from Contributions \$5,000 or More	Amount from Largest Single Contributor	Percent of Revenue from Largest Contributor
American Family Voices	\$2,254,950	\$2,254,500	100.0%	\$1,470,000	65.2%
NAACP National Voter Fund	\$17,115,865	\$16,880,000	98.6%	\$16,570,000	96.8%
Citizens for a Sound Economy	\$8,512,932	\$6,820,446	80.0%	\$952,000	11.2%
League of Conservation Voters	\$3,077,966	\$2,301,686	75.0%	\$540,135	17.5%
Americans for Tax Reform	\$4,932,996	\$1,890,141	38.0%	\$310,000	6.3%
60 Plus Association	\$2,022,654	\$585,000	30.4%	\$300,000	14.8%
National Right to Work Committee	\$7,490,000	\$1,876,620	25.0%	\$305,000	4.1%
Brady Campaign to Prevent Gun Violence	\$10,751,125	\$2,473,536	23.0%	\$900,000	8.4%
Seniors Coalition	\$13,382,083	\$2,771,631	20.7%	\$2,065,000	15.4%

Source: 990 forms, including Schedules B, filed by individual groups with the IRS.

Drug Industry Likely Injected Big Bucks Into Four New Stealth PACs

PhRMA, the trade association for the brand-name pharmaceutical industry, appears to have contributed as much as \$41 million to New Stealth PACs in 2002, making it by far the biggest player in financing electorally active 501(c) groups. (See related report, *Big PhRMA's Stealth PACs: How the Drug Industry Uses 501(c) Non-profit Groups to Influence Elections*. Available at www.stealthpacs.org.)

Additionally, big drug companies contributed a total of \$10 million in 2000 to the U.S. Chamber of Commerce, which the Chamber used to boost candidates who took a PhRMA-friendly position on Medicare prescription drug legislation.

Three groups that have been documented as receiving money from PhRMA – United Seniors Association, 60 Plus Association and the Seniors Coalition – reported to the IRS receiving \$37.2 million combined from their largest single contributors in 2002.⁹¹ Each ran significant communications campaigns praising candidates who supported the Medicare prescription drug bill that became law in December 2003. A fourth group, America 21, appeared to work with 60 Plus and the Seniors Coalition, and may have received a \$3.65 million contribution from PhRMA.⁹² Its Form 990 for 2002 showed that its largest donor contributed that much.

The value of PhRMA's investment – if Public Citizen's hypothesis is correct – was placed in stark relief 12 months after the 2002 elections: Congress passed a landmark Medicare prescription drug bill that blocked the federal government from using its bulk purchasing power to negotiate deep drug price discounts. The bill passed the House by a mere five votes, a victory that Republican leaders were only able to achieve by keeping the vote open on the House floor for an unprecedented three hours. The law also blocked a proposal to legalize the purchase of lower-cost prescription drugs from other countries, such as Canada, where governments do use their purchasing power to drive down prices.

Note: Definitive answers to Public Citizen's hypothesis that PhRMA gave as much as \$41 million to four New Stealth PACs would be available if PhRMA had abided by the IRS requirement to disclose grants on its Form 990. (See further discussion in Section II of this report: "Legal Issues: Some New Stealth PACs May Be Violating Their Tax Status and IRS Disclosure Requirements.")

Groups believed to have received multimillion-dollar grants from PhRMA are:

United Seniors Association

PhRMA acknowledged furnishing USA with an "unrestricted educational grant" during 2002, and the *National Journal* reported in the aftermath of the 2002 elections that "PhRMA provided millions of dollars to the United Seniors Association to help underwrite an issue-ad blitz to bolster members of Congress who sided with the drug industry positions on a [Medicare prescription drug] benefit."⁹³ USA received only one contribution of more than \$50,000 in 2002,

and that contribution was for \$20.1 million, according to its report to the IRS.⁹⁴ The combination of these factors strongly suggests that the \$20.1 million came from PhRMA.

USA President Charles Jarvis did not respond to an e-mail inquiry from Public Citizen asking, among other things, if PhRMA contributed the \$20.1 million donation.⁹⁵ Moreover, Public Citizen obtained an unredacted copy of USA's 2001 Schedule B form, which enumerates donors who gave \$5,000 or more. That year, the form confirmed, USA reported a \$1.5 million contribution from PhRMA.⁹⁶

During 2002, USA spent \$18.6 million on television and radio ads that promoted a Medicare prescription drug bill during the summer and that supported 25 candidates in the fall elections.⁹⁷ Public Citizen estimated that USA spent \$13.6 million of the \$18.6 million to bolster candidates.⁹⁸

60 Plus Association

This group also reportedly received an “unrestricted educational grant” from PhRMA in 2002.⁹⁹ According to 60 Plus' filing with the IRS, its large contributions in 2002 included \$220,000 from one donor and nearly \$11 million from another.¹⁰⁰ During the lead-up to the 2002 elections, 60 Plus distributed direct mail or other election-oriented communications in at least 24 political contests. Public Citizen obtained copies or summaries of nearly all of them, and each one prominently praised or criticized a candidate on prescription drug issues. 60 Plus' receipt of nearly \$11 million from a single person or organization in 2002 – viewed together with reports showing that PhRMA gave 60 Plus a grant in 2002 and that 60 Plus prominently promoted PhRMA's position on the issues before the election – strongly suggests that PhRMA's “unrestricted educational grant” is reflected in the nearly \$11 million line item on 60 Plus' 2002 Schedule B.

Seniors Coalition

This group reportedly received \$2.1 million from PhRMA in 2000.¹⁰¹ In 2002, the Seniors Coalition reported on its Schedule B that it received a contribution of \$6 million from a single person or organization.¹⁰² The Seniors Coalition disseminated communications in at least 11 political contests that year. The group's “cookie cutter” direct mailer praised candidates for favoring a Medicare prescription drug bill that PhRMA favored.¹⁰³

Public Citizen finds it unlikely that a single donor would have given the Seniors Coalition \$6 million unless it would be used to further the donor's interests. Combined with the group's strong predilection for issues favored by PhRMA, and PhRMA's large gift of \$2.1 million in 2000, there is a strong reason to suspect that PhRMA or another large pharmaceutical interest was responsible for the \$6 million donation to the Seniors Coalition in 2002.

America 21

After failing to post the necessary \$25,000 in revenue to require filing of a 990 form in either 2000 or 2001,¹⁰⁴ America 21 reported \$3.7 million in revenue in 2002, including \$3.65 million from a single donor.¹⁰⁵ The group proceeded to distribute direct mail in at least 20 political contests.¹⁰⁶

Public Citizen obtained copies of many of the mailings (which took a “cookie-cutter” form, with only the candidates’ names changed), each of which prominently played up a candidate’s support for the prescription drug bill in Congress. For example, the mailers stated that a candidate’s “commitment to seniors” included a plan to “improve Medicare and provide a real prescription drug benefit so seniors don’t jeopardize their quality of life.” (The mailers did not solely concern Medicare prescription drugs; they also praised the favored candidates for their plans to “protect the Social Security Trust Fund from liberals who want to spend it on wasteful, big-government programs.”)¹⁰⁷

America 21 also appears to have collaborated on its mailings with 60 Plus and the Seniors Coalition. Not only did the groups send out similar-looking direct mail in many of the same contests,¹⁰⁸ but in their letters praising Republican Congressional candidate Bob Beauprez of Colorado each group misspelled his last name as “Beuprez.”¹⁰⁹

Because America 21 featured PhRMA’s issues prominently in its direct mailers and appeared to work with two other organizations that have received money from PhRMA, Public Citizen suspects that PhRMA, or an ally, furnished America 21 with its \$3.65 million contribution in 2002.

U.S. Chamber of Commerce

Brand-name drug companies gave the Chamber \$10 million in 2000,¹¹⁰ which the Chamber used to broadcast ads supporting 19 Republican U.S. House candidates and three Republican U.S. Senate candidates. “Who’s gonna run this big government plan? Will some bureaucrat be telling me what kind of medicine I can have?” a man asks in one of the “cookie cutter” Chamber advertisements. The announcer follows up by instructing viewers: “Tell [Missouri congressional candidate] Ted House to stop scaring seniors. Stop supporting the [Clinton] White House prescription drug plan.”¹¹¹

The Chamber’s 2000 campaign dovetailed with that of Citizens for Better Medicare (CBM), a PhRMA front group that broadcast at least \$65 million worth of advertisements in 1999 and 2000.¹¹² Many CBM commercials were issue ads intended to beat back momentum in Congress for President Clinton’s prescription drug plan. The ads featured a sensible-sounding senior citizen named “Flo” who cautioned, “I don’t want big government in my medicine cabinet.” But CBM also spent \$6.8 million on ads intended to influence elections in 2000, according to reviewers at the Wisconsin Advertising Project.¹¹³

Business and Labor Groups Also Financed New Stealth PAC Activity

In addition to the pharmaceutical industry, other business groups and labor groups were the key organizational sponsors of New Stealth PAC activity from 2000 to 2004.

Business Groups

The **U.S. Chamber of Commerce**, as discussed above, spent at least \$10 million on advertisements in 2000 to influence federal races on behalf of the pharmaceutical industry. But the group also broadcast ads in at least eight state judicial contests – and probably more.¹¹⁴ Jim Wootton, former president of the Chamber’s Institute for Legal Reform (an affiliated group that aims to bring about tort law restrictions on plaintiffs), said the group took a position in 15 state judicial races, although it is unclear if the Chamber broadcast ads in each contest.¹¹⁵

In 2002, the Chamber chose to finance outside groups. Among them, the Chamber gave \$2.6 million to the American Taxpayers Alliance (ATA), which is known to have broadcast ads in at least two U.S. Senate contests, a state judicial contest and a state attorney general contest that year.¹¹⁶ The Chamber also financed an independent group called “Mississippians for Economic Progress” in 2002.¹¹⁷ The *Wall Street Journal* speculated that the Chamber had also given money in 2002 to the Law Enforcement Alliance of America (LEAA), an independent group that spent millions on state contests that year. (Wootton declined comment to the *Journal*.)¹¹⁸ A year earlier, the *Harrisburg Patriot* reported that the LEAA was “funded primarily by contributions from the National Rifle Association and the U.S. Chamber of Commerce.”¹¹⁹

The Chamber has said it will spend \$40 million in 2004 to defeat candidates who oppose its agenda.¹²⁰

The **American Taxpayers Alliance**, in addition to the \$2.6 million contribution it received from the Chamber in 2002, reportedly used \$1.8 million from two large electric utilities – Reliant Energy and Duke Power – to finance attack ads against California Gov. Gray Davis (D) in 2001.¹²¹ A San Francisco judge found the ads to be electioneering in nature, though an appeals court overruled that decision on the grounds that the ads did not use “express advocacy” language.¹²²

The **Business Roundtable** spent at least \$3 million to broadcast ads affecting two U.S. Senate contests and 17 U.S. House races in 2000.¹²³

Americans for Job Security was seeded with \$1 million each from the American Insurance Association and the American Forest and Paper Association in 1998.¹²⁴ The group has guarded its lists of funders ever since. *National Journal* reported in December 2003 that 500 corporations and individuals ante up contributions “as high as \$100,000” to AJS.¹²⁵

Labor Groups

The **AFL-CIO** pioneered the use of soft money by Section 501(c) groups to influence elections when it spent \$35 million in an attempt to knock off Republican U.S. House members in 1996 – and the group has remained very active ever since.¹²⁶

The AFL-CIO broadcast ads supporting Democratic presidential candidate Al Gore in 2000, along with ads supporting a U.S. Senate candidate and at least 15 U.S. House candidates, all Democrats. In 2002, the AFL-CIO broadcast ads in at least seven U.S. Senate contests and eight U.S. House contests, each time supporting the Democratic candidate.¹²⁷

The group has run several ads in 2004 criticizing President Bush and has budgeted \$44 million for influencing elections this cycle.¹²⁸

The **Alliance for Retired Americans** was created by the AFL-CIO, and most of the ARA's 2.7 million members are union retirees who were given free membership.¹²⁹ In 2002, the group dispatched "Senior Truth Squads" to at least nine highly competitive congressional districts to attack the prescription drug benefit promoted by the GOP. ARA also financed a billboard supporting House candidate James Maloney for opposing "risky privatization plans" for Social Security.¹³⁰

American Family Voices was seeded with an initial contribution of at least \$800,000 from the American Federation of State, County and Municipal Employees (AFSCME) in 2000. AFV spent at least \$630,000 opposing George Bush in the 2000 presidential race and has run at least two ads in 2004 opposing Bush.

New Stealth PACs Have Launched Surgical Strikes to Sway State Elections

While the *New Stealth PACs* study is focused primarily on groups' involvement in federal contests, three 501(c) groups have made a practice of launching expensive, negative ad campaigns in state elections, often targeting state judicial and attorney general candidates: the American Taxpayers Alliance, Law Enforcement Alliance of America, and U.S. Chamber of Commerce.

American Taxpayers Alliance

Led by Republican operative Scott Reed – who ran Bob Dole's 1996 presidential campaign – the ATA has advertised in at least five state contests since 2000, including \$300,000 in expenditures in the 2002 **Illinois** Supreme Court contest matching Republican Rita B. Garman and Democrat Sue E. Myerscough. The ATA “bared its canines with TV ads that stopped just short of putting Myerscough in al-Qaida,” a local columnist wrote.¹³¹

The ATA's involvement in this contest, combined with the Law Enforcement Alliance of America's work in that year's Illinois attorney general contest (discussed below), prompted the Illinois legislature to pass a disclosure law requiring all groups that spend \$3,000 on communications mentioning candidates' names in the two months before elections to disclose the names of their contributors.¹³²

The ATA also broadcast ads in the Republican primaries in two **Alabama** judicial contests in 2004¹³³ and in a **Florida** attorney general race in 2002. The ATA was among three groups that spent a combined \$1 million in **Mississippi** in 2003 to influence that state's races for governor, lieutenant governor and attorney general. (The ATA ran ads boosting the prospects of successful gubernatorial candidate Haley Barbour, whom Reed previously worked under at the Republican National Committee.)¹³⁴

Law Enforcement Alliance of America

An apparent front group for the National Rifle Association and possibly the U.S. Chamber of Commerce, the LEAA has broadcast ads in at least seven state contests since 2000.

In 2002, the LEAA spent \$1.5 million attacking Kirk Watson, a Democratic attorney general candidate in **Texas**. LEAA's ads have subsequently become part of a grand jury investigation. The policy issues director for Greg Abbott, Watson's Republican opponent, has admitted that he had a conversation with LEAA president Jim Fotis in the fall of 2002, though he said it had nothing to do with the ads in the attorney general's race. If Abbott's campaign was involved in the LEAA ads, it would mean Abbott had accepted corporate money (in the form of the ads), which is illegal for political candidates in Texas.¹³⁵

The LEAA also spent \$1.3 million on the 2002 **Illinois** attorney general contest, unsuccessfully supporting Republican Joe Birkett against Democrat Lisa Madigan.¹³⁶

In **Mississippi**, the LEAA aimed \$686,000 in expenditures at defeating incumbent Democrat Jim Hood in the 2003 attorney general contest. As of two weeks before the election, the LEAA had run more ads than the two candidates combined.¹³⁷ The group also spent \$500,000 to defeat Mississippi Supreme Court Justice Chuck McRae in 2002.¹³⁸

In **Kansas**, the group shelled out \$250,000 in a Republican primary on an ad campaign that blamed an attorney general candidate for releasing a “murderer” from prison. The suspect had not been convicted, and five television stations pulled the ad. The state’s Republican governor called the ads “a shadowy political practice” and “the worst form of political speech.”¹³⁹

U.S. Chamber of Commerce

The Chamber broadcast ads attempting to influence at least eight state judicial contests in 2000.¹⁴⁰ These included at least four contests in **Mississippi**, two in **Michigan**, and two in **Ohio**, including a collaborative effort in which three independent groups spent an estimated \$4 million trying unsuccessfully to unseat Ohio Democratic Supreme Court Justice Alice Resnick.¹⁴¹

The Chamber was ordered to pull one of its ads off the air in Mississippi days before the 2000 elections for a suspected violation of the state’s election law.¹⁴² The Ohio Elections Commission ruled in 2003 that ads the Chamber had aired in 2000 violated state law against the use of corporate money to finance “express advocacy” communications affecting federal elections.¹⁴³ [See also Section II, “Some New Stealth PACs May Be Violating Their Tax Status and IRS Disclosure Requirements”]

The Chamber also has provided funding to at least two groups (and likely more) that have run ads influencing state judicial contests. In 2002, the Chamber gave \$2.6 million to ATA,¹⁴⁴ which broadcast ads affecting at least two state contests, in Florida and Illinois. The Chamber also pumped more than \$1 million into independent groups, including one called “Mississippians for Economic Progress,” as part of its effort to defeat Mississippi’s Justice Chuck McRae in 2002.¹⁴⁵ The *Wall Street Journal* speculated that the Chamber also gave money that year to LEAA, which would be consistent with the LEAA’s reported expenditure of \$500,000 on anti-McRae ads. (The Chamber did not comment to the *Journal*.)¹⁴⁶

Qualified Non-Profit Corporations: The Sacred “(c)s”

Qualified non-profit corporations (QNCs) are 501(c)(4) groups vested with unusual privileges that have increased in value in recent years:

- QNCs may use funds from their own treasuries to pay for advertisements that include “express advocacy” language (which includes instructions to “vote for” or “vote against” a candidate). These funds can include unlimited contributions from individuals, but the organizations cannot accept money from corporations or unions. Neither federal PACs nor 527 groups can both accept unlimited contributions and engage in express advocacy. PACs, which are permitted to engage in express advocacy, are limited to accepting maximum donations of \$5,000 a year from individuals or other PACs. Section 527 groups can accept unlimited contributions from any source but cannot use those funds to engage in express advocacy.
- QNCs are permitted to broadcast advertisements mentioning the names of candidates in the 60 days before a general election or the 30 days before a primary or convention. The Bipartisan Campaign Reform Act (BCRA) prohibits other independent groups, such as 527s, from broadcasting such ads unless they set up separate accounts that do not include contributions from corporations or unions. Other independent groups also must disclose to the FEC their itemized contributions, which QNCs are not required to do.
- QNCs may keep their list of individual contributors confidential, except for contributions that are specifically earmarked for an electioneering expenditure.

QNCs are also known by election lawyers as “Massachusetts Citizens for Life” groups, or MCFLs, a reference to the 1986 Supreme Court decision in *Federal Election Commission v. Massachusetts Citizens for Life Inc.*¹⁴⁷ In that case, a Massachusetts pro-life group challenged the federal ban on corporate funding for express advocacy communications. The group, which had been charged by the FEC with violating federal election law by distributing campaign materials, argued that it was unfair to apply the ban against corporate involvement in campaigns to non-profit ideological corporations. The Supreme Court concluded that the ban on direct corporate expenditures for or against federal candidates could not constitutionally apply to expenditures by non-profit ideological corporations that are not financed by other corporations or unions.¹⁴⁸

But the Supreme Court also ruled in *FEC v. MCFL* that:

Should MCFL’s independent spending become so extensive that *the organization’s major purpose* may be regarded as campaign activity, the corporation would be classified as a political committee. As such, it would automatically be subject to the obligations and restrictions applicable to those groups whose *primary objective* is to influence political campaigns. [emphasis added]¹⁴⁹

Subsequently, the FEC drafted regulations specifically defining QNCs and how they fit into federal election campaign law. A QNC must meet the following criteria:

- Its only purpose is the promotion of political ideas;
- It cannot engage in business activities;
- It has no shareholders or other persons with an interest ownership.
- It receives almost no business or union funds, other than *de minimus* earnings, such as from the sale of T-shirts; and
- It is a 501(c)(4) ideological organization.¹⁵⁰

FEC regulations specify that nothing in its guidelines shall be construed to allow a legitimate QNC to violate the tax code as it applies to 501(c)(4) non-profit groups. As such, QNCs may not make electioneering activity their primary purpose.

While QNCs shall not be subject to the same campaign finance requirements that apply to for-profit corporations, in accordance with the *MCFL* decision, the FEC staff proposed – and existing FEC regulations reflect – that QNCs should nonetheless be subject to the reporting requirements that apply to all other non-profit groups.¹⁵¹ In codifying this regulation, the FEC staff provided considerable discussion in the Federal Register of the significance of the *MCFL* decision for reporting requirements of QNCs. As noted by the staff, QNCs under the regulation must:

Include the name and mailing address of the person to whom the expenditure was made, the amount of the expenditure, an indication of whether the expenditure was in support of or in opposition to a candidate, and a certification as to whether the corporation made the expenditure in cooperation or consultation with the candidate. The names of persons who contributed more than \$200 toward the expenditure must also be reported. Thus, the final rules treat qualified nonprofit corporations as individuals for the purposes of the reporting requirements. This is one of the least burdensome reporting schemes contained in FECA.¹⁵²

Nevertheless, the FEC has since oddly made a policy of allowing QNCs to evade even these “least burdensome” disclosure requirements. Though QNCs must verify their status and notify contributors that funds may be used for political purposes, QNCs need not disclose their individual contributors to the public *unless* the contributors earmarked their contributions for a specific electioneering expenditure. The Supreme Court also placed some limits on the political activities of QNCs in a 2003 decision. In *FEC v. Beaumont*, the court ruled that the special privileges afforded to QNCs do not extend to making direct campaign contributions to federal candidates.¹⁵³

In the immediate aftermath of the *MCFL* decision, very few groups took advantage of QNC status, and those that did satisfy the requirements tended to be small, grassroots groups. Much has changed since then. Some of the groups now filing for QNC status are influential organizations with significant financial support from individuals. Three 501(c) organizations included in the *New Stealth PACs* database have registered with the FEC as QNCs or have

announced their intentions to do so: the League of Conservation Voters, NARAL Pro-Choice America and Planned Parenthood Action Fund. Each appears intent on taking advantage of the status in 2004.

“We can be a very powerful voice right up to Election Day, with a message that we know turns out core Democrats and appeals to swing voters,” said NARAL Pro-Choice America communications director David Seldin.¹⁵⁴ QNC status “is just another tool in our arsenal, which I think makes our case even more compelling to those donors who want to help us,” said Planned Parenthood political director David Williams.¹⁵⁵

Meanwhile, the League of Conservation Voters has converted its Web site into an anti-Bush campaign hub. The site contains such messages as an ad that blinks “Defeat Bush” and “Save Our Future.”¹⁵⁶ The activity is being funded in part through its 501(c)(4) with the protection of QNC status. [For more details on the permitted activities of 501(c) groups, QNCs, 527s and PACs, see Appendix I: Permissible Activities of Organizations]

Individuals Affiliated with Multiple New Stealth PACs

Further revealing the often shadowy and partisan world of electorally active 501(c) groups, many Washington political leaders or operatives have ties to two or more groups included in the *New Stealth PACs* database. Many of those individuals also have long histories of affiliations to other partisan endeavors, such as roles in political campaigns, or with parties, PACs and 527 groups. These interconnections reveal a group of insiders who play a highly strategic role in what could be characterized as a political shadow world that is closely tied to the major political parties.

Listed below are those well-connected individuals' affiliations with electorally active 501(c) groups and other political organizations. Scores of other individuals included in the *New Stealth PACs* database have had affiliations with a single electorally active 501(c) group plus numerous other partisan organizations. While too numerous to list here, their names and affiliations can be found on the Web site, www.stealthpacs.org.

Organizations included in the *New Stealth PACs* database are denoted with an asterisk. All information below is taken from the database.

Bob Barr

Group	Barr's Relationship to Group	Most Recent Year Confirmed in Relationship
Citizens United*	Honorary Chairman	2004
National Rifle Association*	Member of the Board of Directors	2002
House of Representatives	U.S. Representative (R-Ga.), 1995-2002	2002

Heather Booth

Group	Booth's Relationship to Group	Most Recent Year Confirmed in Relationship
MoveOn.Org*	Consultant	2004
NAACP National Voter Fund*	Former Executive Director; listed as Member of the Board of Directors on the group's 2001 tax form.	2001
Campaign for America's Future	Consultant for this "progressive" Section 527 organization.	2004
Democratic National Committee	Field Director	1996

James Bopp

Group	Bopp's Relationship to Group	Most Recent Year Confirmed in Relationship
America 21*	Participated in an America 21 news conference at the National Press Club.	2002
American Taxpayers Alliance*	Defended the ATA in a lawsuit filed by Gov. Gray Davis (D-Calif.) to force the group to register as a political committee.	2001
National Right to Life Committee	Counsel	2004

Christopher Butler

Group	Butler's Relationship to Group	Most Recent Year Confirmed in Relationship
Americans for Tax Reform*	Deputy Director of Communications	2004
Seniors Coalition*	Director of Public Affairs	2002

Alex Castellanos

Group	Castellanos' Relationship to Group	Most Recent Year Confirmed in Relationship
Citizens United*	Castellanos' firm National Media produced ads for Citizens United.	2003
United Seniors Association*	National Media produced ads for USA.	2001
American Taxpayers Alliance*	National Media produced "Grayout" ads criticizing Gov. Gray Davis (D-Calif.).	2001
Citizens for Better Medicare	Castellanos' firm received an estimated \$8.3 million to produce ads on behalf of CBM in 1999 and 2000 that claimed a proposed Medicare prescription drug benefit amounted to "big government in my medicine cabinet."	2000
Republican National Committee	Castellanos produced an RNC ad attacking Al Gore in which the word "RATS" flashed on the screen for a fraction of a second.	2000

Ryan Ellis

Group	Ellis' Relationship to Group	Most Recent Year Confirmed in Relationship
Social Security Choice.org*	Executive Director	2004
Americans for Tax Reform*	Federal Affairs Manager	2004

Tony Feather

Group	Feather's Relationship to Group	Most Recent Year Confirmed in Relationship
National Rifle Association*	NRA is a client of Feather's direct mail, telemarketing and grassroots lobbying firm, Feather Larson & Synhorst.	2004
Progress for America*	Treasurer, Member of Board of Directors	2003
President George W. Bush	Feather Larson & Synhorst's Web site says Feather is a "key adviser" to the Bush White House.	2004
Republican National Committee	RNC is a client of Feather Larson & Synhorst. Feather also once was Midwest Regional Coordinator of the RNC, overseeing nine Midwestern states, and responsible for design and implementation of telephone and mail voter-contact programs.	2004
National Republican Senatorial Committee	NRSC is a client of Feather Larson & Synhorst.	2004
National Republican Congressional Committee	NRCC is a client of Feather Larson & Synhorst.	2004
Bush-Cheney for President (2000)	Political Director; the campaign also was a client of Feather's firm.	2000

Benjamin Ginsberg

Group	Ginsberg's Relationship to Group	Most Recent Year Confirmed in Relationship
Progress for America*	Counsel	2004
Americans for Job Security*	Counsel	2003
Bush-Cheney for President (2004)	National Counsel (resigned August 2004)	2004
Swift Boat Veterans for Truth	Legal adviser to this Section 527 group.	2004
Republican National Committee	Counsel	2004
National Republican Senatorial Committee	Counsel	2004
National Republican Congressional Committee	Counsel	2004
Republican Governors Association	Counsel	2002
Bush-Cheney for President (2000)	National Counsel	2000

Curtis J. Herge

Group	Herge's Relationship to Group	Most Recent Year Confirmed in Relationship
United Seniors Association*	Corporate counsel	2001
60 Plus Association*	Helped incorporate group in 1992.	1992
President-elect Ronald Reagan's Transition Team	Served on transition team.	1980
Department of Interior	Assistant to Secretary James Watt	N/A

David Keene

Group	Keene's Relationship to Group	Most Recent Year Confirmed in Relationship
National Rifle Association*	Member of the Board of Directors	2003
United Seniors Association*	Lobbyist	2003
American Conservative Union	Chairman	2004
Dole-Kemp for President (1996)	Informal adviser	1996
Bob Dole for President (1988)	Senior Political Consultant	1988
George Bush for President (1980)	National Political Director	1980
Ronald Reagan for President (1976)	Southern Regional Coordinator	1976
Vice President Spiro Agnew	Political Assistant	N/A

Matt Kibbe

Group	Kibbe's Relationship to Group	Most Recent Year Confirmed in Relationship
Citizens for a Sound Economy*	President and CEO	2004
U.S. Chamber of Commerce*	Director of Federal Budget Policy	1989
House of Representatives	Chief of Staff, Rep. Dan Miller (R-Fla.)	1996

Grover Norquist

Group	Norquist's Relationship to Group	Most Recent Year Confirmed in Relationship
Americans for Tax Reform*	President	2004
National Rifle Association*	Member of the Board of Directors	2003
U.S. Chamber of Commerce*	Economist and chief speechwriter	1984
American Conservative Union	Member of the Board of Directors	2004
Ronald Reagan Legacy Project	President	2004
Council for National Policy	Member	2002
Republican Platform Committee	Campaign staff member	1996
College Republican National Committee	Executive Director	1983

Carl Pope

Group	Pope's Relationship to Group	Most Recent Year Confirmed in Relationship
Sierra Club*	Executive Director	2004
League of Conservation Voters*	Former Executive Director of California LCV	1981
Jefferson Group	Participant in this group, an informal gathering of Democratic strategists.	2004

Adam Ruben

Group	Ruben's Relationship to Group	Most Recent Year Confirmed in Relationship
MoveOn.org*	Field director	2004
Sierra Club*	Former grassroots lobbyist	N/A

Peter Schurman

Group	Schurman's Relationship to Group	Most Recent Year Confirmed in Relationship
MoveOn.org*	Executive Director	2004
Sierra Club*	Worked on environmental issues for Sierra Club.	N/A
House of Representatives	Worked for Rep. Gary Ackerman (D-N.Y.).	N/A

Debbie Sease

Group	Sease's Relationship to Group	Most Recent Year Confirmed in Relationship
Sierra Club*	Legislative Director	2004
League of Conservation Voters*	Member of the Board of Directors	2002

Craig Shirley

Group	Shirley's Relationship to Group	Most Recent Year Confirmed in Relationship
Grassfire.org*	Grassfire is a client of Shirley's firm, Shirley & Banister Public Affairs.	2004
Law Enforcement Alliance of America*	LEAA is a client of Shirley & Banister Public Affairs.	2004
National Rifle Association*	NRA is a client of Shirley & Banister Public Affairs.	2004
United Seniors Association*	Member of the Board of Directors	2002
American Conservative Union	ACU is a client of Shirley & Banister Public Affairs.	2004
Republican National Committee	RNC is a client of Shirley & Banister Public Affairs.	2004
Americans For A Better Country	Shirley founded this organization, which sought to get the FEC to ban Section 527 groups from using soft money contributions to promote Democratic candidates in 2004.	2004
Conservatives for Effective Leadership	Shirley founded this organization, which sought funding to defeat Hillary Clinton's 2000 Senate bid. The organization was a client of Shirley & Banister Public Affairs.	2000
Americans for Bush	Shirley was member of the team that created the "Willie Horton" ad, an attack against Gov. Michael Dukakis (D-Mass.), who ran for president against George H.W. Bush.	1988

John Sweeney

Group	Sweeney's Relationship to Group	Most Recent Year Confirmed in Relationship
AFL-CIO*	President	2004
Alliance for Retired Americans*	Sweeney spoke at the event announcing the formation of the group and participated in a rollout tour.	2001

Joe Velasquez

Group	Velasquez's Relationship to Group	Most Recent Year Confirmed in Relationship
American Family Voices*	Member of the Board of Directors	2002
AFL-CIO*	Head of the Department of Community Services	1999
President Bill Clinton	Deputy Director of Political Affairs	1994
Democratic National Committee	Staffer	N/A

Richard Viguerie

Group	Viguerie's Relationship to Group	Most Recent Year Confirmed in Relationship
60 Plus Association*	Viguerie's direct mail company did work for 60 Plus; he also was involved in founding the group.	N/A
Seniors Coalition*	Involved in founding the group.	N/A
United Seniors Association*	Founder	N/A

James Wootton

Group	Wootton's Relationship to Group	Most Recent Year Confirmed in Relationship
U.S. Chamber of Commerce / Institute for Legal Reform*	Executive Director	2002
United Seniors Association*	Member of the Board of Directors	2002
President Ronald Reagan	Deputy Administrator, Office of Juvenile Justice and Delinquency Prevention	N/A

SECTION II

Some New Stealth PACs May Be Violating Their Tax Status and IRS Disclosure Requirements

Most Stealth PACs Reported Zero Election Activities to the IRS

Federal election law defines “electioneering communications” narrowly to include “express advocacy” (e.g., invoking words “vote for” or “vote against”) and (since enactment of BCRA) broadcast messages that mention or depict a candidate and target the candidate’s voting constituency in the 60 days preceding a general election or the 30 days prior to a primary or convention.

The IRS, however, uses a far broader definition. Line 81 of IRS Form 990 for 501(c) groups requires disclosure of “political expenditures.” The IRS defines “political expenditures” as spending “intended to influence the selection, nomination, election, or appointment of anyone to a federal, state, or local public office, or office in a political organization.”¹⁵⁷ Groups that attempt to influence elections are required to pay taxes on their political expenditures or their organization’s overall investment income for the year, whichever is less.¹⁵⁸ Thus, organizations with no investment income need not pay taxes on their political expenditures.

The IRS uses a “facts and circumstances” test to determine whether communications should be considered political and has outlined 11 factors that point in favor or against a communication being categorized as political.¹⁵⁹ For instance, a communication is more likely to be considered political if it mentions a candidate’s name *and* discusses an issue that is relevant to an ongoing campaign. It is less likely to be considered political if it mentions a candidate only as a public official who is in a position to act on a specific matter that the organization hopes to influence, such as an upcoming vote in Congress or a pending executive action. [See Appendix II: The IRS Facts and Circumstances Test]

The *New Stealth PACs* study evaluated communications based on the criteria the IRS would use to determine whether a communication was political. Communications that appeared to raise significant questions as to whether they met the IRS definition for political expenditures (e.g., attempting to influence elections) were included. Of 14 groups disseminating communications in 2000 that Public Citizen deemed likely to have satisfied the IRS definition of “political,” only five reported to the IRS that they had such expenditures. The other 10 groups effectively reported that none of their ads or other communications mentioning candidates were intended to influence elections. Of 20 groups that appeared to make “political” expenditures in 2002, only four reported them to the IRS.¹⁶⁰ [See Figure 8]

While Public Citizen found that these groups combined to spend at least \$87.8 million in 2000 and 2002 on election activities, the groups reported only \$12.2 million in political expenditures to the IRS – and nearly \$7.8 million of that total was reported by a single organization, the NAACP National Voter Fund.¹⁶¹

Two other factors support Public Citizen’s finding that the groups in the *New Stealth PACs* database provided inaccurate reports of their political activity to the IRS:

Figure 8

501(c) Groups Engaging in “Political” Activities, 2000 and 2002

	2000		2002	
	Public Citizen’s Analysis	Groups’ Reports to IRS	Public Citizen’s Analysis	Groups’ Reports to IRS
Number of Groups Disseminating “Political” Messages*	14	5	20	4**
Amount of Political Expenditures*	\$56.4M	\$11.3M	\$31.5M	\$949,880

Source: Public Citizen analysis of data from the *New Stealth PACs* database, as of Aug. 23, 2004. Data from Figure 1.
 * “Political” here uses the IRS definition of political expenditures: those “intended to influence the selection, nomination, election, or appointment of anyone to a federal, state, or local public office, or office in a political organization.”
 ** The Law Enforcement Alliance of America did not make its forms available to Public Citizen. It is not known whether the group reported political expenditures.

- **New Stealth PACs praised or criticized politicians who held no office.** The IRS is less likely to deem a communication political if it appears intended to sway the opinion of a government official on a pending public policy issue. However, many communications chronicled in the *New Stealth PACs* database mentioned candidates who held no political office at the time.

The 2002 U.S. Senate contest in Missouri pitting incumbent Democratic Sen. Jean Carnahan and former Republican Rep. Jim Talent is instructive. At least five New Stealth PACs sent out messages that mentioned Talent but not Carnahan (see list below). Because Talent held no office at the time, the communications were most likely intended to help his election, not to lobby him on an issue. But none of the groups reported any political activity in 2002.

60 Plus Association sent out a direct mail item naming Talent an “Honorary Guardian of Seniors” and urged recipients to thank Talent for his “unwavering support” on seniors’ issues.¹⁶²

Americans for Job Security broadcast a TV commercial lauding Talent for “16 years of public service. ... In Congress, he championed legislation to remove disruptive and violent students from classrooms, so kids could learn and be safe.”¹⁶³

American Taxpayers Alliance issued telemarketing messages calling on those who answered their phones to thank Jim Talent for working to cut taxes.¹⁶⁴

Seniors Coalition sent out a direct mail item proclaiming, “While liberals were talking, Jim Talent was voting for the first comprehensive Medicare prescription drug benefit.”¹⁶⁵

United Seniors Association broadcast a TV ad claiming Talent had “proposed a comprehensive plan to add meaningful prescription drug coverage to Medicare for all seniors.”¹⁶⁶

- **New Stealth PACs advertised disproportionately in the most competitive races.** Eleven political contests since 2000 have each drawn attention from at least seven of the groups in the *New Stealth PACs* database.¹⁶⁷ In addition to the presidential races in 2000 and 2004, the contests included eight U.S. Senate races and one U.S. House race in 2002. Seven of the Senate races and the lone House race were rated as toss-ups by the *Cook Political Report*, Washington’s foremost political handicapping service. The *Cook Political Report* rated 20.6 percent of Senate races and only 3.7 percent of House races as toss-ups in 2002.¹⁶⁸ [See Figure 9]

If ads by the New Stealth PACs truly were intended to influence public opinion on issues (as the groups effectively report to the IRS by listing zero “political” expenditures), there would be no reason for them to gravitate to the closest electoral contests.

Figure 9

Electoral Contests in which 501(c) Groups Were Most Active, 2000-2004

Number of Active Groups	Contest (Winner in italics; incumbents noted with asterisks)	Year, Jurisdiction, Office Sought, General/Primary	Cook Political Report Rating
16	Jean Carnahan* (D) 49% vs. <i>Jim Talent</i> (R) 50%	2002, Missouri, U.S. Senate, General	Toss Up
13	Jeanne Shaheen (D) 46% vs. <i>John Sununu Jr.</i> (R) 51%	2002, New Hampshire, U.S. Senate, General	Toss Up
12	Paul Wellstone* / Walter Mondale (D) 47% vs. <i>Norm Coleman</i> (R) 50%	2002, Minnesota, U.S. Senate, General	Toss Up
9	Spencer Abraham* (R) 48% vs. <i>Debbie Stabenow</i> (D) 49%	2000, Michigan, U.S. Senate, General	Toss Up
9	<i>George W. Bush</i> (R) 47% vs. Al Gore (D) 48%	2000, National, Presidential, General	N/A
8	George W. Bush* (R) vs. John Kerry (D)	2004, National, Presidential, General	N/A
8	Tim Hutchinson* (R) 46% vs. <i>Mark Pryor</i> (D) 54%	2002, Arkansas, U.S. Senate, General	Toss Up
8	<i>Tim Johnson</i> * (D) 50% vs. John Thune (R) 50%	2002, South Dakota, U.S. Senate, General	Toss Up
7	<i>Wayne Allard</i> * (R) 51% vs. Tom Strickland (D) 46%	2002, Colorado, U.S. Senate, General	Toss Up
7	<i>Tom Harkin</i> * (D) 54% vs. Greg Ganske (R) 44%	2002, Iowa, U.S. Senate, General	Lean Democratic
7	<i>Tim Holden</i> * (D) 51% vs. George Gekas* (R) 49%	2002, Pennsylvania, U.S. House, General	Toss Up
6	<i>Nancy Johnson</i> * (R) 54% vs. James Maloney* (D) 43%	2002, Connecticut, U.S. House, General	Lean Republican
6	Max Cleland* (D) 46% vs. <i>Saxby Chambliss</i> (R) 53%	2002, Georgia, U.S. Senate, General	Lean Democratic
6	<i>Chip Pickering</i> * (R) 64% vs. Ronnie Shows* (D) 35%	2002, Mississippi, U.S. House, General	Lean Republican
6	Charles Robb* (D) 48% vs. <i>George Allen</i> (R) 52%	2000, Virginia, U.S. Senate, General	Toss Up
5	<i>Chris Chocola</i> (R) 51% vs. Jill Long Thompson (D) 46%	2002, Indiana, U.S. House, General	Toss Up
5	Bill Luther* (D) 42% vs. <i>John Kline</i> (R) 53%	2002, Minnesota, U.S. House, General	Toss Up
5	<i>Rick Renzi</i> (R) 49% vs. George Cordova (D) 46%	2002, Arizona, U.S. House, General	Toss Up
5	<i>Heather Wilson</i> * (R) 55% vs. Richard Romero (D) 45%	2002, New Mexico, U.S. House, General	Lean Republican
4	<i>Jim Nussle</i> * (R) 57% vs. Anne Hutchinson (D) 43%	2002, Iowa, U.S. House, General	Lean Republican

Sources: Data contained in the *New Stealth PACs* database as of Aug. 23, 2004, and the *Cook Political Report*, Oct. 4, 2002, Oct. 20, 2002, and Oct. 25, 2000 editions.

A Number of Groups' Expenditures Raise Questions About Whether They Violated Their 501(c) Status As Their Major Purpose

501(c) groups, excluding charities registered under Section 501(c)(3), are permitted to engage in substantial activities to influence the outcomes of elections as long as those activities do not represent the *primary purpose* of the group. (The IRS terms such activities “political,” which it defines as efforts to “influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office, or office in a political organization, or the election of presidential or vice presidential electors.”)¹⁶⁹

The definition of “primary purpose” has been a source of considerable debate among campaign finance experts and has never been clearly articulated by the IRS. The IRS wrote in an e-mail message to Public Citizen that “primary” means “more than half – based on all the facts and circumstances.” The e-mail message suggested that evaluation of a group’s costs was a factor, but not the sole factor, in determining its primary purpose.¹⁷⁰

Given the flexibility in both the IRS interpretation of “political expenditures” and in its evaluation of “primary purpose,” it is impossible to assert conclusively whether groups have violated the IRS prohibition against 501(c) groups being primarily devoted to political activities.

Nonetheless, about a third of the 30 groups studied by Public Citizen appeared to engage in enough political activity as a share of their overall budgets to raise substantial questions as to whether they violated the terms of their tax status for at least one year. Eight of the 10 groups that appeared possibly to be in violation of their tax status in 2000 or 2002 overwhelmingly supported Republican candidates.

The following groups may have violated the “primary purpose” prohibition in any year from 2000 to 2002:

60 Plus Association

In 2002, 60 Plus Association disseminated communications mentioning candidates by name in at least 25 congressional contests. Because 60 Plus’ primary method of communication was direct mail, for which spending estimates are difficult to obtain, it is impossible to determine how much money the group devoted to political activities. In its 2002 filing with the IRS, 60 Plus declared \$10.6 million (out of its total expenditures of slightly more than \$12 million) for “Program Expenses, State.” The group provides no further elaboration and reported zero political expenditures to the IRS. Yet those program activities represented a vast expansion on 60 Plus’ overall operations from 2001. The group’s entire expenditures in that non-election year were only \$1.9 million.

America 21

In 2002, America 21 reported on its 990 form that it had received \$3.7 million in grants “to educate and encourage individuals to participate in the governmental and voting process.” The

group reported expenditures of \$3.6 million for “direct mail, e-mail, radio and television advertising to inform and activate citizen involvement in the political and voting process.”¹⁷¹ (America 21 left blank the line on its 990 form where it was supposed to describe its primary purpose.) America 21 distributed direct mail in at least 18 congressional contests. Public Citizen obtained copies of a majority of America 21’s direct mail communications and determined that each was likely to satisfy the IRS test for a political expenditure.¹⁷² Public Citizen concluded that the majority, if not the entirety, of America 21’s efforts to engage citizens in the voting process were likely aimed at influencing the outcomes of elections.¹⁷³ America 21 reported zero political expenditures to the IRS in 2002.¹⁷⁴

American Family Voices

American Family Voices burst onto the scene with an advertising campaign criticizing then Texas Gov. George Bush during the 2000 presidential campaign.¹⁷⁵ The group has broadcast a total of five television ads since its inception, each attacking Bush.¹⁷⁶ The group reported expenditures of \$1.6 million for advertising in 2000, out of total revenue of slightly less than \$2.3 million.¹⁷⁷ It is unclear whether the full \$1.6 million was dedicated to commercials attacking Bush. The Campaign Media Analysis Group (CMAG) estimated that American Family Voices spent \$628,219 to purchase time for the Bush ad in 2000.¹⁷⁸ CMAG’s estimates typically understate actual costs by about half because they do not take into account production or other administrative expenses. American Family Voices reported zero political expenditures in 2000, 2001 and 2002.¹⁷⁹

Americans for Job Security

Michael Dubke, president of AJS, said that his group spends 95 percent of its budget on “grassroots lobbying,” which, by all appearances, has consisted almost entirely of purchasing political advertisements.¹⁸⁰ In 2000, for instance, the group reportedly spent about \$9 million on political ads out of total reported expenditures of \$10.9 million.¹⁸¹ Though the group claims a tax-exempt purpose of disseminating “pro-paycheck” messages, each AJS advertisement for which Public Citizen obtained a transcript either praised a Republican candidate or criticized a Democratic candidate. Several didn’t appear to show even tenuous connections to paychecks. For example, one ad praised Republican Jim Talent, the former Missouri Congressman seeking election to the U.S. Senate, because he “championed legislation to remove disruptive and violent students from classrooms.”¹⁸² Reviewers at the Wisconsin Advertising Project concluded that 100 percent of AJS’s television ads in 2000 and 2002 were intended to influence the outcomes of elections.¹⁸³ The group reported zero political expenditures in fiscal years 1999, 2000 and 2001, the last three years for which its tax forms are available.¹⁸⁴

American Taxpayers Alliance

ATA, which has broadcast advertisements in at least eight electoral contests since 2001, devoted 73.2 percent of its expenditures to “promotion and advertisement” in 2001, and 55.4 percent of its expenditures to that purpose in 2002.¹⁸⁵ While it is impossible to tell how much of that spending went toward electoral advertisements, the group reportedly spent \$2 million on commercials (out of \$3.4 million in total expenditures) attacking Gov. Gray Davis (D-Calif.) in 2001 for his energy policies.¹⁸⁶ Davis’ campaign sued the group, claiming that it had violated the state’s election law by not registering as a political committee. A San Francisco judge sided with Davis, but an appeals court overruled that decision because the ATA had not crossed the

“express advocacy” threshold.¹⁸⁷ Notably, the IRS standard for political activity is far broader than the stringent “express advocacy” threshold.¹⁸⁸ The ATA reported zero political expenditures in both 2001 and 2002.¹⁸⁹

Every Child Matters

Every Child Matters arrived on the scene in 2002, when it sponsored an advertising campaign criticizing Sen. Wayne Allard (R-Colo.), who was facing a tough re-election campaign against Democrat Tom Strickland. Evidence suggests the advertising was financed both by the group’s 501(c)(4) arm and its 527. For example, the group told a newspaper that it would release the names of some contributors paying for the anti-Allard ads but not all of them.¹⁹⁰ Donors’ names could only be withheld legally if they gave to the 501(c)(4), or if they made contributions of less than \$200 to the 527. The collective entities of Every Child Matters spent up to \$600,000 on advertising in the Allard-Strickland contest by one news account.¹⁹¹ Every Child Matters’ 527 group reported expenditures of \$385,995 in 2002.¹⁹² Even if all of that spending went toward the Allard-Strickland race, it left open the possibility that Every Child Matters spent up to \$215,000 from its 501(c)(4) account. If so, that would represent more than half of the group’s 2002 expenditures, which were \$284,167.

Law Enforcement Alliance of America

Estimating the percentage of total revenues that LEAA devoted to political purposes in 2002 is impossible because the group refused to comply with the federal law that requires 501(c) groups to furnish their annual tax form upon request. Nonetheless, LEAA appears to have engaged in substantial political activity in 2002, spending an estimated \$3.6 million to affect elections in the five electoral contests (out of six in which the LEAA advertised) for which Public Citizen was able to obtain estimates.¹⁹³ The group had expenditures of \$4.5 million in 2001, the most recent year for which its finances are available.¹⁹⁴ Unless its expenditures rose 60 percent or more in 2002, evidence suggests the group spent more than half of its money on political purposes that year, jeopardizing its compliance with the “primary purpose” test.

Seniors Coalition

This group distributed direct mail communications mentioning candidates in at least 11 congressional contests in 2002.¹⁹⁵ Like 60 Plus Association, another purported senior citizens’ advocacy organization, it is difficult to gain insight into the amount the Seniors Coalition spent to affect elections because independent estimates on the costs of direct mail campaigns are not available. In its 990 form for 2002, the Seniors Coalition reported about \$3.3 million in expenses for “printing and publications” and “postage and shipping.” Its total expenditures for the year were slightly under \$11.9 million. Other large items reported by the group for 2002 included \$446,880 for “advertising & promotion” and nearly \$2.9 million for telemarketing.¹⁹⁶ The Seniors Coalition reported revenue for 2002 was \$12.6 million. If the expenditures listed above were for activities that sought to influence elections, the Seniors Coalition may have devoted more than half of its resources to those pursuits. The Seniors Coalition reported zero political expenditures in 2002.

Social Security Choice.org

This group reportedly spent \$500,000 on its campaign to affect at least four U.S. Senate and House contests in 2002.¹⁹⁷ Given that the group’s revenue was only \$254,068 in 2002,¹⁹⁸ that

reported figure appears to be wrong. But the group's spending of \$188,558 on "public relations"¹⁹⁹ (74.2 percent of its total revenue), combined with the absence of substantial press coverage for non-political activities by Social Security Choice.org, raises substantial questions as to whether the group devoted the majority of its budget to political advertisements. The group reported zero political expenditures in 2002.²⁰⁰

United Seniors Association

USA disseminated television or radio advertisements that were judged by reviewers at the Wisconsin Advertising Project as likely to meet the IRS standard for political expenditures in at least 26 congressional contests in 2002.²⁰¹ USA declared on its 990 tax form that year that it spent nearly \$18.6 million for "radio/television" placements. By analyzing the timing of USA's advertisements and advertising expenditures, Public Citizen estimated that USA spent about \$13.6 million on political ads in 2002.²⁰² Such a figure would represent nearly 56 percent of the group's 2002 expenditures. USA reported zero political expenditures in its 2002 filing with the IRS.²⁰³

Citizens United May Be Pushing the Bounds of Its 501(c) Status in 2004

Citizens United, a 501(c)(4) group, has essentially declared its purpose as supporting President Bush. Its Web site has included such messages as, “The left has been attacking our President for months, on everything from tax cuts, to fighting the war on terror, to his service in the National Guard. Citizens United is fighting back.”²⁰⁴

Elsewhere on the site, Citizens United President David Bossie complains that liberal financier George Soros “has declared war on President Bush and his positive agenda for America.” Bossie promises to do everything within his power to “run counter-ads in support of the President.”²⁰⁵

Evidence strongly suggests that Citizens United is devoting a significant percentage of its revenue – and likely a majority – to these pro-Bush activities. Most significantly, its solicitations suggest to would-be contributors that their money will be used to pay for campaign-related ads. For example, an ad on Citizen United’s Web site blaming President Clinton for the terrorist attacks of 9/11, and praising President Bush, includes this epilogue from a narrator: “Support George W. Bush, a president who is truly willing to fight the war on terror. Please make a donation to Citizens United now to keep this advertisement on the air.”²⁰⁶

There is a distinction between supporting a president’s agenda and supporting a president’s re-election campaign. The former could be categorized as issue-advocacy work, while the latter is clearly an election activity. Ample evidence suggests that Citizens United’s work so far in 2004 has been aimed at aiding Bush’s re-election:

- **Citizens United has devoted considerable effort to criticizing Democratic presidential nominee John Kerry.** The group ran an advertisement criticizing Kerry as “another rich, liberal elitist from Massachusetts who claims he’s a ‘man of the people.’ ”²⁰⁷ The group subsequently commissioned a documentary director who produced two films for the Republican Convention to create a movie attacking Kerry. An outline for the film, obtained by *Salon*, suggests that it will reiterate charges questioning the legitimacy of Kerry’s Vietnam medals, and portray Kerry as “the preferred candidate of such ‘foreign leaders’ as Osama bin Laden, Kim Jong Il and the Nicaraguan Sandinista Party, and as an ‘appeaser’ of European powers deemed corrupt and hostile to U.S. interests – especially France.”²⁰⁸
- **Citizens United has billed its advertisements as efforts to support Bush.** The version of the Kerry “man of the people” ad on Citizen United’s Web site culminates with this pitch from a female narrator: “Support George W. Bush, a devoted leader with traditional American Values. Please make a donation to Citizens United now.” The donations’ page includes a photo of Bush, adorned with Citizens United’s logo.

- **Citizens United’s complaint asking the FEC to halt TV commercials for the movie *Fahrenheit 9/11* may have been rooted in electoral politics.** Citizens United argued to the FEC in the summer of 2004 that commercials for Michael Moore’s anti-Bush documentary *Fahrenheit 9/11* constituted violations of BCRA’s ban on “electioneering communications” (i.e., broadcast messages mentioning a candidate’s name within 60 days of a general election or within 30 days of a primary or convention). Nothing in Citizens United’s “exempt purpose,” as reported by the group to the IRS, even remotely suggests that a commitment to upholding campaign finance laws is part of the group’s mission. (The group’s stated purpose is: “To promote social welfare through information and educating the public on conservative ideas and positions on issues, including national defense, [the] free enterprise system, belief in God, and family as the basic unit of society.”²⁰⁹) After the complaint was rejected by the FEC, Citizens United started making its own anti-Kerry documentary. The group planned to run commercials for the film in the run-up to the presidential election, but the FEC recently ruled that such commercials would constitute “electioneering communications.”²¹⁰

Certain 501(c) Groups Failed to Disclose Grants

At least two organizations that appear to have financed election activities by New Stealth PACs seemingly failed to satisfy the IRS requirement for 501(c) groups to disclose grants to other organizations. Furthermore, anecdotal evidence suggests that at least one of these groups may have failed to ensure that funds it furnished to another organization were properly taxed.

Line 22 of the 990 form requires groups to disclose “grants & allocations” and to attach a schedule. In response to a query from Public Citizen about the definition of a grant, the IRS pointed to a federal regulation that defines grants as including “loans, program-related investments and payments to exempt organizations in furtherance of their exempt purpose.”²¹¹

- **PhRMA failed to report grants to at least two New Stealth PACs in 2002.** PhRMA, a Section 501(c)(6) group, told Public Citizen that it had provided the United Seniors Association with an “unrestricted educational grant” in 2002.²¹² PhRMA also reportedly provided the 60 Plus Association with a similar grant in 2002.²¹³ PhRMA reported no grants on its 990 form in 2002.²¹⁴
- **The U.S. Chamber of Commerce failed to report at least one grant to a New Stealth PAC in 2002.** The American Taxpayers Alliance’s 990 form in 2002 showed that the group received \$2.6 million from the U.S. Chamber of Commerce.²¹⁵ ATA was active in at least two state contests in 2002, a judicial race and an attorney general race.²¹⁶ In addition, *Forbes* reported that the Chamber “pumped \$1 million more” into a Mississippi judicial contest in 2002, “funneling it through local groups such as Mississippians for Economic Progress.”²¹⁷ Neither the Chamber nor the Chamber’s Institute for Legal Reform, an affiliate that supports tort law restrictions on plaintiffs, reported making any grants in 2002.²¹⁸ Both groups are registered under Section 501(c)(6) of the tax code.

One question raised by the grants apparently doled out by PhRMA and the Chamber is whether the organizations chose to classify the money distributed as “lobbying and political expenses,” activities for which organizations may not receive tax-deductible contributions. Trade associations that offer their members the opportunity to take business deductions for their dues must report to the IRS their amount of combined expenditures for “lobbying and political” purposes. (This figure is declared on line 85(d) of the 990 form, apart from line 81(a), which solely concerns “political” expenditures.) For instance, in 2002, PhRMA reported combined lobbying and political expenditures of \$78.6 million out of \$134.3 million in dues,²¹⁹ while the Chamber reported \$19.8 million in lobbying and political expenditures out of \$58.1 million in dues.²²⁰ Trade association members may not claim business deductions for the portion of their dues that the association uses for “lobbying and political” purposes.

But how should trade organizations treat grants made to other groups? In response to a query from Public Citizen, the IRS wrote that “if a grant is earmarked for lobbying purposes, it should be treated as lobbying by the grantor organization.”²²¹

When PhRMA spokesman Jeff Trehwitt discussed the grant his group had given to USA in 2002, he told Public Citizen: “What we have given them is an educational grant ... Literally, they are free to do as they want with it.”²²²

Trehwitt’s characterization implied that PhRMA did not regard the grant as an earmarked payment, raising the prospect that PhRMA did not categorize it as a “lobbying and political” expenditure.

Trehwitt’s assertion that USA was free to spend the money as it wished was also dubious given evidence that suggests PhRMA gave the group \$20.1 million, an inordinate sum for an open-ended grant. A redacted copy of the contributors’ portion of USA’s 990 form shows that the group had received \$20.1 million from one contributor in 2002, its only contribution of more than \$50,000. USA’s total income in 2002 was \$25.5 million.²²³

The *National Journal* reported in the 2002 election’s aftermath that “PhRMA provided millions of dollars to the United Seniors Association to help underwrite an issue-ad blitz to bolster members of Congress who sided with the drug industry positions on a benefit.”²²⁴ If USA’s report of a single \$20.1 million contributor and the absence of any other multimillion-dollar contributors are accurate, evidence strongly suggests that PhRMA provided the \$20.1 million.

Public Citizen contacted PhRMA’s press office and subsequently sent an e-mail asking why the organization did not list any grants on its 990 form in 2002 and whether it categorized its contributions to USA as “business and lobbying” expenditures.²²⁵ PhRMA did not respond.

A U.S. Chamber of Commerce spokeswoman refused to provide Public Citizen with information on why it listed no grants on its 990 form, or whether any of its payments to other organizations were treated as “lobbying and political” expenditures.²²⁶

New Stealth PACs Have Been Accused of Violating State Election Laws

At least four New Stealth PACs – all Republican-leaning groups – have been subject to complaints of violating state election laws, some in more than one state.

Americans for Job Security

The **Alaska** Public Offices Commission ruled in 2002 that advertisements run that year by AJS to attack Democratic Gov. Tony Knowles violated state laws that require reporting of contributions and expenditures intended to influence the outcome of elections.²²⁷

American Taxpayers Alliance

ATA was the subject of a complaint in **Illinois** over ads it ran attacking a state Supreme Court candidate. A review panel found the complaint to have merit, but the state’s election board deadlocked 4-to-4. In response to ads by ATA and the Law Enforcement Alliance of America, the Illinois legislature passed a law requiring groups that mention candidates’ names in the two months before an election to report their sources of funds.²²⁸

Law Enforcement Alliance of America

- A county judge in **Pennsylvania** banned advertisements by LEAA from the airwaves for violating state election laws. The LEAA was also banned from soliciting funds in the Keystone State because it failed to file the proper forms.²²⁹
- In **Illinois**, LEAA was the subject of a complaint over ads it ran attacking a state Supreme Court candidate. A review panel found the complaint to have merit, but the state’s election board deadlocked 4-to-4. In response to ads by LEAA and the American Taxpayers Alliance, the Illinois legislature passed a law requiring groups that mention candidates’ names in the two months before an election to report their sources of funds.²³⁰
- LEAA also has been part of a **Texas** investigation into whether the Texas Association of Business (TAB) and Texans for a Republican Majority (TRMPAC), a 527 organization that was established by U.S. House Majority Leader Tom Delay, illegally influenced the outcome of Texas’ 2002 state legislative elections.²³¹

U.S. Chamber of Commerce

- **Mississippi** officials launched an investigation of the Chamber for ads it ran in 2000 promoting judicial candidates. The Chamber responded with a lawsuit in federal court seeking a declaration that it had a constitutional right to run the ads. Chamber officials argued that if ads did not contain “express advocacy” words like “vote for” or “defeat,” they were not subject to the state’s campaign reporting laws. Shortly before the election, a federal district judge ruled against the Chamber, finding that the ads were clearly intended to influence the outcome of an election: “This court is persuaded that these advertisements do not attempt to discuss issues. Rather, the advertisements offer thinly veiled exhortations to support the campaigns of [particular] candidates.”²³²

A few days later, in another lawsuit brought by one of the judges targeted by the Chamber's ads, a state court ordered the Chamber to cease broadcasting one of the ads.²³³

A federal appeals court later sided with the Chamber on the grounds that the Mississippi statute could not constitutionally be applied to ads that did not cross the "express advocacy" threshold.²³⁴ The appeals court's constitutional analysis, however, was subsequently repudiated by the U.S. Supreme Court in upholding BCRA. Although the Court's decision last year in *McConnell v. FEC* may have come too late to alter the outcome of the Mississippi case unless it is once again taken up on appeal, the *McConnell* decision made clear that the basic premise of the lower court's decision – that the Constitution doesn't permit regulation of non-express advocacy communications – was incorrect.²³⁵

- The Chamber also came under scrutiny in **Ohio**, where the state elections commission ruled in 2003 that it was "undeniable" that ads the Chamber broadcast in 2000 were "advocating the election of" judicial candidates Deborah Cook and Terry O'Donnell in violation of Ohio law.²³⁶

SECTION III

Policy Recommendations to the IRS, FEC and Congress for Improving Disclosure of Election Activities by 501(c) Groups

Policy Recommendations to Protect the Integrity of the Tax Code and Federal Campaign Finance Laws

Section 501(c) groups, as educational and advocacy organizations seeking improvements in public policy, are entitled to considerable protections and levels of confidentiality. Discussion of issues of public concern, which may carry with it criticism or praise of elected officials who are candidates for federal office, is central to the mission of such organizations.

Nevertheless, as Public Citizen's *New Stealth PACs* database demonstrates, many 501(c)(4), 501(c)(5) and 501(c)(6) groups appear to be using these protections by exploiting their non-profit, tax-exempt status to avoid the:

- Prohibition under federal campaign law against using money supplied by corporations or unions to promote the election or defeat of federal candidates (“source prohibitions”);
- \$5,000 limit per year on contributions from individuals to a political committee promoting the election or defeat of federal candidates (“contribution limits”);
- The requirement under the tax code for “political organizations” to report and disclose to the public itemized contributions and expenditures (“disclosure requirements”).
- Disclosure requirements of transfers and grants among 501(c)(4), 501(c)(5), 501(c)(6) and Section 527 groups.

Several regulatory steps described in the following pages should be taken by the IRS and the FEC to protect the integrity of the tax code and federal campaign finance laws, while avoiding unconstitutional infringement on the rights of non-profit groups to challenge public policies and the government. While many of these recommendations are already within the regulatory authority of the IRS and the FEC, neither agency has shown much willingness to exercise its authority to rein in abuses. Failure to do so undermines organizations and candidates that obey the law. If this continues to be the case, statutory mandates may become necessary to address the problem.

Congress should also take remedial action where appropriate. It must be recognized that the integrity of federal election law is jeopardized when the IRS is unable or unwilling to monitor excessive electioneering activities by 501(c)(4), 501(c)(5) and 501(c)(6) groups. Congress should give the IRS the legal authority to hold tax preparers accountable for the accuracy of 990 forms, encourage the IRS to monitor political activities more closely by developing an electronic reporting system for non-profit groups, and provide the Exempt Organizations Division of the IRS with the necessary resources to implement and enforce the tax code as it applies to electoral activities.

Policy Recommendations to the IRS for Improving Disclosure of Election Activities of 501(c) Groups

1) Reiterate to non-profit groups the differences between “political expenditures” and “lobbying expenditures” to be reported on Form 990 and enforce the distinction according to IRS definitions.

At present, the Form 990 disclosure requirements approach the expenditure activity of non-profit organizations with a focus on lobbying activities rather than electioneering activities. This is probably attributable to the assumption that 501(c) organizations are intended primarily to be educational or lobbying entities rather than political (i.e., electoral) organizations. Additional electioneering reporting requirements are established only for non-profit organizations that file under the special provisions of Section 527 of the tax code.

For 501(c) organizations, “Political expenditures” are to be declared on Line 81 of Form 990, while aggregate “political and lobbying expenditures” are to be declared on Line 85. The aggregate amount declared on Line 85 is appropriate, in part because it determines the amount that members of business trade associations cannot deduct as business expenses. The declaration of just “political expenditures” on Line 81 is intended in part to determine if 501(c) organizations owe taxes for electoral activities and whether an organization complies with the primary purpose standard that distinguishes a 501(c) group from a 527 political organization.

The *New Stealth PACs* database suggests that many electioneering 501(c) groups are either unaware of, or have disregarded, the filing requirements of Line 81. Because of the confusion caused by different definitions of political activity between FECA and the tax code, many 501(c) organizations may be unaware that expenditures for exempt activities under the tax code should be reported as “political expenditures.” Some non-profit groups, on the other hand, may be willing to exploit this confusion to avoid disclosure.

Of at least 15 groups engaged in activities that appear to have been intended to influence elections in 2000, 10 reported zero political expenditures. Yet some of these 10 groups – such as Americans for Job Security (AJS) and the U.S. Chamber of Commerce – reported massive “lobbying expenditures” combined with “political expenditures” on Line 85.

Even more telling, the advertisements aired or distributed by the largest electioneering groups in the 2000 elections focused on federal candidates, tended to be aired or distributed shortly before the election, and were aired or distributed to the candidates’ constituencies. The ads had a demonstrably electioneering tone, were usually sharply critical of the candidates’ issues or personalities, and frequently did not coincide with any reasonably germane legislative effort. These ads clearly passed the “reasonable person” standard of campaign activity that the U.S. Supreme Court found so compelling in upholding BCRA, and many may have passed the more detailed IRS “facts and circumstances” standard of campaign activity, if the IRS had investigated. Yet these ads generally were declared as educational or lobbying activity by the

groups sponsoring the ads. [See sample ads in Appendix III: Sample Advertisements by Electioneering 501(c) Non-Profits Groups]

Americans for Job Security is a 501(c)(6) that led the list of electioneering non-profit groups in 2000, ranking seventh in the nation with nearly 6,000 television ads.²³⁷ AJS declared no political expenditures on Line 81, while declaring \$11 million in expenditures for lobbying and political activities combined.²³⁸ Yet most of those expenditures went to pay for ads promoting Bush or attacking Gore immediately before the presidential election.

The U.S. Chamber of Commerce is another typical example of a group that launched extensive electioneering activities in 2000 but reported no “political expenditures” on Line 81. The Chamber did report \$35.3 million in combined lobbying and political expenditures on Line 85.²³⁹ Some of those expenditures actually went to pay for television ads attacking the candidacies of Democrat Debbie Stabenow, who was running for the Senate seat in Michigan against incumbent Republican Sen. Spencer Abraham.²⁴⁰

Much of the same pattern is evident in the 2002 election cycle. Public Citizen’s research suggests that at least 21 501(c) organizations appear to have engaged in electioneering activities in 2002. Of these, only four reported political expenditures in 2002. Again, Public Citizen’s records of the ads aired or communications distributed by these groups in 2002 suggest they were designed to promote the election or defeat of candidates, not to influence legislation or educate the public about policies.

In order to achieve more accurate reporting of “political” versus “lobbying” expenditures, the IRS should *republish* its long-standing definitions that distinguish political and lobbying activity, *highlight* these distinguishing definitions in a clearly marked format on the instructions for filling out Form 990, and *reiterate* the distinction in a newly-issued Revenue Ruling, as it has recently done to warn charities of constraints on their political activities.²⁴¹

2) Add new line, 81(c), to Form 990 for “candidate-related expenditures” – reporting certain paid communications to the public (other than an organization’s membership) according to a bright-line standard of whether the communication depicts a formal candidate for public office and targets that candidate’s voting constituency.

The Internal Revenue Code defines “political activity” as participating or intervening in any political campaign. Section 527 of the tax code provides a more specific definition of political activity as “exempt functions.” Exempt functions include activities “influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, or local public office or office in a political organization, or the election of presidential or vice presidential electors, whether or not such individuals or electors are selected, nominated, elected or appointed.”²⁴² Political expenditures by a 501(c) group that meet this definition are to be reported on Line 81(a) of Form 990.

Though these definitions of what constitutes political activity seem reasonably clear, many 501(c) groups apparently rely instead on the definition of electioneering activity under federal election law – using the antiquated “magic words” standard²⁴³ – in determining which expenditures are for political purposes. In doing so, these groups claim, accurately or not, that such expenditures are for the purpose of “issue advocacy” rather than electioneering, and thus classifiable as lobbying activity reported on Line 85.

The issue advocacy rationale provides a major loophole in federal election laws. Independent groups sponsor advertisements for the general public designed to influence the election or defeat of candidates, but use no “magic words” and thus escape federal contribution limits and disclosure requirements. These electioneering communications, known as “sham issue ads,” have since become carefully regulated under BCRA to capture any ad that depicts a candidate shortly before an election and targets that candidate’s constituency.

The IRS lacks a comparable bright-line standard to help distinguish sham issue advocacy from genuine issue advocacy. The final test for such a distinction must be close scrutiny by the IRS using the “facts and circumstances” standard. However, the IRS should amend its disclosure requirements on Form 990 to be more closely in tune with federal election law – at least for reporting purposes. With reasonable persons at odds over what constitutes a campaign ad (political) versus an issue ad (lobbying), Form 990 should be modified to include a separate category – Line 81(c) – where groups declare the amount of expenditures made for paid communications distributed beyond the organization’s membership that depict a formal candidate for public office through electronic means (other than the Internet), print, direct mail and telemarketing (except direct mail and telemarketing conducted primarily to fund advocacy and lobbying activities of the organization), and that target the candidate’s voting constituency.

Such “candidate-related expenditures” may or may not be political expenditures. But the designation of expenditures that depict candidates and target their voting constituencies will help flag to the IRS those groups that may be sponsoring substantial communications to affect elections. The IRS would then consider any additional factors it deemed appropriate, such as the timing of the communications, whether the communications were part of an ongoing series, or whether relevant legislation was pending at the time, to make its final determination as to whether these communications were indeed electioneering or issue advocacy (lobbying).

At the same time, a bright-line standard for reporting purposes of whether a paid public advertisement depicts a candidate would more closely standardize the definitions of federal election law and the Internal Revenue Code. The definitions between the two sets of laws cannot be made identical because they serve different functions, but they should be made reasonably compatible to minimize confusion.

3) Require 501(c)(4), 501(c)(5), and 501(c)(6) organizations to report subtotals of lobbying expenditures and electioneering expenditures by functional category.

A general but reasonable description of types of expenditures associated with lobbying activity and electioneering activity could be achieved through simple modifications to Form 990

reporting requirements.

One such remedy would be to add two new columns to Section II of Form 990, “Statement of Functional Expenses,” Lines 22-44, to include column “(E) Lobbying,” and column “(F) Electioneering.” This would provide a breakdown of lobbying expenses and electioneering expenses by the same general categories for which 501(c) groups are required to break down expenses associated with “Program Services,” “Management and General,” and “Fundraising.”

4) Provide a means for tracking transfers and grants of funds among 501(c)(4), 501(c)(5), 501(c)(6) and Section 527 groups.

Funds long have been transferred between non-profit entities, frequently with one non-profit group serving as a fundraising vehicle for another non-profit entity. Such transfers of funds and grants are common among affiliated as well as unaffiliated 501(c) groups and 527s. While Schedule A of Form 990 clearly requires any transfers from charities to be reported, 501(c)(4), 501(c)(5) and 501(c)(6) groups are not subject to the same reporting requirements, though they are required to report grants.

While such transfers and grants are permissible among non-profit entities as long as the funds are not used for purposes otherwise prohibited for the original non-profit group that raised the funds, they do pose the potential for providing an ever-larger flow of untracked soft money into federal and state elections. The financial inter-relationships among non-profit entities are likely to become much more important and extensive in the post-BCRA environment as some groups seek to evade federal campaign finance law. To preserve the integrity of campaign finance law and the tax code, it is imperative for the IRS to provide a reasonable means for tracking the flow of money between non-profit entities.

This recommendation applies to any type of transfers among affiliated 501(c)(4), 501(c)(5) and 501(c)(6) groups and Section 527s, as well as grants between unaffiliated non-profit groups. Requiring such groups to report financial transfers and transactions with other non-charitable exempt groups – and specifying whether the groups are affiliated – could similarly help determine whether 501(c)(4), 501(c)(5), 501(c)(6) groups and Section 527s are sharing financial resources for an electoral strategy.

Regarding grants, Line 22 of Form 990 requires 501(c) organizations to disclose the cumulative amounts of grants distributed in the previous year, and to attach a schedule to that effect. Some organizations comply with this requirement. For instance, the National Rifle Association reported a grant in the neighborhood of \$500,000 to the Law Enforcement Alliance of America in 2000, 2001 and 2002.²⁴⁴ Other organizations do not appear to comply. For instance, the U.S. Chamber of Commerce reported no grants distributed in 2002. Yet, the American Taxpayers Alliance’s 990 form in 2002 reported that ATA received \$2.6 million from the Chamber that year.²⁴⁵

Likewise, a PhRMA spokesman told Public Citizen that his organization had made an “unrestricted educational grant” to the United Seniors Association in 2002.²⁴⁶ Yet PhRMA

reported no grants on its 990 form in 2002.²⁴⁷

A useful system of monitoring transfers and grants between non-profit entities could be accomplished by requiring 501(c)(4), 501(c)(5) and 501(c)(6) groups and 527 groups to complete the same information as Part VII of Schedule A of Form 990 for transfers as well as Line 22 of Part II of Form 990 for grants between these non-profit groups, even if the answer is zero.

5) Create a searchable, sortable and downloadable electronic filing and disclosure system for Form 990 filings.

Obtaining the 990 form of any particular non-profit group is an arduous task, despite the fact that 990s are required to be public records. A group's 990 form must be requested in writing from the IRS or in person at an organization's headquarters. The public interest group GuideStar worked out an arrangement with the IRS to receive electronically scanned copies of the Form 990s that are filed annually by 501(c)(3) groups, which GuideStar then posts on its Web site.

GuideStar has attempted to make a similar arrangement with the IRS for the records of other 501(c) organizations, but to no avail. "We can't get the IRS to scan them," said Chuck McLean, GuideStar's vice president of research. McLean added that the public's demand for such forms is strong. He said that the IRS has cited the cost of scanning the forms as the reason it refuses to do so.²⁴⁸

Notably, the IRS maintains an office in Ogden, Utah, that is devoted to responding to requests for forms, which the service generally furnishes free of charge via mail to requesters. While data is not readily available for a cost comparison, the IRS could significantly reduce its costs for fielding and processing requests if forms were available on the Internet.

The only effective way to make these public records readily accessible is to mandate that all 501(c)(4), 501(c)(5) and 501(c)(6) groups with contributions or expenditures of at least \$50,000 in a calendar year be required to file their financial statements with the IRS electronically.

The IRS, in turn, should develop an electronic reporting system, perhaps comparable to the electronic reporting system currently in use for 527 groups' financial reports, to make the 501(c) filings easily accessible on the Internet, as well as searchable and sortable by a number of important criteria (such as the name of the organization, directors, aggregate political expenditures, transfers of funds, and purpose of the organization). The IRS should also make the data downloadable for independent research.

The benefits derived from a system of electronic filing and disclosure go far beyond an interest in public disclosure. Electronic filing will itself save the IRS considerable costs in terms of paper filing management and storage. More importantly, electronic disclosure will empower the IRS with a more efficient means for monitoring and enforcing compliance with the reporting requirements.

Policy Recommendation to the FEC for Improving Disclosure of Election Activities of Qualified Non-Profit Corporations

Develop disclosure regulations for Qualified Non-Profit Corporations (QNCs) that meet both the public's right to know who is financing electioneering advertisements and the U.S. Supreme Court's dictum that QNCs deserve less intrusive requirements than those applicable to for-profit corporations.

Federal election laws prohibit corporations and labor unions from financing express advocacy and electioneering communications for or against federal candidates and from making contributions to candidate campaigns. The U.S. Supreme Court in 1986 modified this prohibition against corporate involvement in elections by ruling that a certain, limited class of corporations – now known as Qualified Non-Profit Corporations – should be exempt from this prohibition. In *Federal Election Commission v. Massachusetts Citizens for Life Inc.*, the Supreme Court defined this limited group of entities to include 501(c)(4) non-profit organizations that derived no money from a business enterprise, accepted no corporate or union contributions, and operated exclusively as ideological organizations committed to a social cause.

The court reasoned that subjecting such groups as Massachusetts Citizens for Life (MCFL) to all the prohibitions and requirements applicable to for-profit corporations defies the intent of federal election laws and violates the constitutional rights of ideological organizations. If treated as a corporation, MCFL would have had to establish a separate segregated fund as a PAC, meet a series of formal reporting requirements applicable to PACs, and raise funds for electioneering purposes only from donations from its members. “It is evident from this survey that MCFL is subject to more extensive requirements and restrictions than it would be if it were not incorporated,” noted the court. “These additional regulations may create a disincentive for such organizations to engage in free speech ... Furthermore, such duties require a far more complex and formalized organization than many small groups could manage.”²⁴⁹

The court further reasoned that if MCFL were not incorporated, it would be subject to the far less burdensome reporting requirements imposed on other unincorporated organizations. Unincorporated organizations that are not PACs but which make independent expenditures are subject to the more reasonable disclosure requirements, according to the court, of: (1) identifying all contributors who have given more than \$200 to the organization in a year for the purpose of influencing elections; (2) disclosing recipients of independent expenditures exceeding \$200; and (3) identifying persons who earmarked contributions for the independent expenditure. “All unincorporated organizations whose major purpose is not campaign advocacy, but who occasionally make independent expenditures on behalf of candidates, are subject only to these regulations.”²⁵⁰ The fact that MCFL was subject to more stringent regulations than other unincorporated organizations offended the court.

The FEC responded by providing a very focused and narrow definition of QNCs that would qualify for the exemption against corporate involvement in federal elections. The FEC

regulations also appear to subject QNCs to the same reporting requirements as other non-PACs that engage in independent expenditures, just as the Supreme Court suggested.²⁵¹

In practice, however, the FEC has exempted QNCs from disclosing the sources of their funds, except for naming contributors who have earmarked a contribution for a specific independent expenditure campaign. All other unincorporated 501(c) non-profit groups that make independent expenditures and electioneering communications, by contrast, must disclose the sources of funds used for campaign activity. Through the FEC's failure to enforce its own regulations, QNCs went from overly burdened entities to under-disclosed entities, enjoying privileges not available to other non-profit groups.

The FEC should enforce its regulations governing QNCs to place these groups on par with the disclosure requirements of all other non-profit groups, as intended by the Supreme Court. QNCs that make independent expenditures or electioneering communications should be required to file those expenditures with the FEC and report the sources of the contributions used specifically to pay for those political communications, as well as the recipients of those expenditures.

Policy Recommendations to Congress for Improving IRS Monitoring and Enforcement of Activities

1) Give the IRS the authority to hold those who prepare and file 990 forms responsible for the accuracy of the reports and to assess penalties for omissions and errors, if the preparer should reasonably have known of such inaccuracies.

Some of the omissions in reporting political expenditures by non-profit groups cited in this report may be attributable to inadequate penalties for under-reporting political expenditures by those who prepare and file 990 forms on behalf of 501(c) groups. Under §6652(c) of the Internal Revenue Code, the organizations themselves or their managers may be held liable for erroneous or false reports filed with the IRS. Organizations could be subject to a fine of \$20 for each day an erroneous report is filed, up to a maximum of \$10,000 or 5 percent of the gross receipts of the organization, whichever is less. After persistent reporting failures by an organization, the IRS may demand that the manager of the organization be held liable, at a penalty of \$10 each day after the written demand expires, up to a maximum of \$5,000. However, the person preparing and filing 990 forms is generally not held liable for incomplete, inaccurate or false reports. While a preparer does in fact sign the final submission, potentially subjecting the preparer to criminal liability for lying under oath, such a draconian penalty for errors in reporting has not been imposed on preparers²⁵² – nor should it be, except for the most egregious violations.

The current penalties for incomplete, inaccurate or false filings often can easily be absorbed by an organization and provide little incentive for those who actually prepare and file 990 forms to ensure accuracy. Instead, like most other filings with the IRS, the preparer as well as the organization should be held responsible for providing complete and accurate information on the 990 forms and be assessed financial penalties for errors, if the preparer should reasonably have known the information was not complete or accurate. Congress should amend the tax code to provide for such financial penalties. The penalties should escalate depending on the degree of neglect or deliberateness in the errors.

2) Provide additional funding for the Exempt Organizations Division of the IRS for monitoring and enforcement responsibilities over non-profit groups extensively engaged in electoral activities.

As Public Citizen's *New Stealth PACs* database aptly demonstrates, lack of enforcement of existing laws and regulations against 501(c) non-profit groups very active in elections is a recurring theme at the Exempt Organizations Division of the IRS, which is in charge of regulating non-profit groups. But the problem is not entirely for lack of will at the division. The Exempt Organizations Division is at a disadvantage compared to other divisions in terms of allocation of resources. It is the one division in the agency that does not derive significant funds from fines. As a result, the Exempt Organizations Division is viewed as a minor and cost-inefficient wing of the IRS and is not allocated adequate resources to monitor the non-profit groups' political expenditures and enforce compliance with the tax code.

In terms of enforcement, the Exempt Organizations Division has shown a striking drop-off in compliance cases over the past few years. The audit rate for the total number of returns filed by 501(c)(4), 501(c)(5) and 501(c)(6) groups has fallen from 2 percent in fiscal year 1995 to 0.6 percent in fiscal year 2001.²⁵³ The number of 501(c)(4), 501(c)(5) and 501(c)(6)s that have had their tax status revoked for violations of the tax code has never been significant and also has dropped over time. In fiscal year 1995, nine non-profit organizations had their tax status revoked for various violations of the tax code. In fiscal year 2001, four such organizations had their non-profit tax status revoked.²⁵⁴

One key method to improve compliance would be for the IRS to develop a system of electronic reporting for 501(c) non-profit groups. The Exempt Organizations Division has not made significant strides in modernizing its ability to track the flow of money among 501(c) non-profit groups. A system of electronic filing and disclosure for 501(c) non-profit groups does not appear to be on the horizon, despite the fact it would save money in the end and strengthen IRS enforcement operations.

This lack of enforcement and monitoring of compliance with the tax code for 501(c)(4), 501(c)(5) and 501(c)(6) groups may have allowed some groups to cross the line into overt political activism. As shown in the *New Stealth PACs* database, it appears that some non-profit groups operate unrestrained – primarily functioning as electoral organizations without the disclosure requirements that apply to 527 organizations and none of the contribution limits and source prohibitions that apply to legitimate political committees.

Congress needs to establish an adequate funding level for the Exempt Organizations Division of the IRS to monitor 501(c) electoral activities, if Congress expects the agency to fulfill its statutory mandate to ensure that the tax code does not become a haven for those who wish to evade federal election laws.

SECTION IV

Profiles of 501(c) Groups in the *New Stealth PACs* Database

60 Plus Association

60 Plus Association, a 501(c)(4), was formed in the early 1990s with help from Richard A. Viguerie, a conservative direct mail guru who has had ties to two other purported senior citizens advocacy organizations that have served Republican causes and the pharmaceutical industry in recent years – United Seniors Association and the Seniors Coalition.ⁱ

60 Plus sent direct mail or broadcast radio messages in at least 25 federal election contests in the months leading up to Election Day 2002. In nearly every case in which the content of its direct mail or radio advertisements was reported, 60 Plus' communications concerned prescription drug benefits for senior citizens.ⁱⁱ

The group appears to have coordinated its 2002 electioneering efforts with at least two other 501(c) organizations believed to be at least partially funded by the pharmaceutical industry: America 21 and the Seniors Coalition. The three groups chose to advertise in many of the same contests. In the Colorado's 7th District congressional contest between Republican Bob Beauprez and Democrat Mike Feeley, all three groups sent out direct mail pieces that misspelled the Republican's name identically as "Beuprez." The mailers had similar or identical type faces, and each promoted Beauprez's support for a Medicare prescription drug benefit.ⁱⁱⁱ

"While the Special Interests are selling another scheme for government run health care ... Bob Beauprez [*sic*] is supporting a Medicare prescription drug plan that works for America's seniors," the mailing said.^{iv}

60 Plus President Jim Martin told the *British Medical Journal* in 2003 that his group had 225,000 donors, whom he said he would not disclose to protect their privacy.^v But in 2002, 60 Plus received nearly \$11 million (91 percent of its total revenue) from a single undisclosed donor, according to the group's Form 990 filing with the IRS.^{vi}

It is quite likely that such a large contribution came from the pharmaceutical industry. The *Washington Post* reported that 60 Plus was the beneficiary of an unrestricted educational grant in

ⁱ Jim Martin, "The Funding Father of the Conservative Movement," *Washington Times*, Sept. 20, 2003; and Public Citizen analysis of data contained in the *New Stealth PACs* database; and Erik Eckholm, "Fear in the Mail," *New York Times*, Nov. 12, 1992.

ⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

ⁱⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database; and Daniel Smith, "Distorted by Outside Money: National Parties and the Race for Colorado's Seventh Congressional District," as quoted in *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections*, edited by David E. Magelby & J. Quin Monson, 2003; America 21 2002 direct mail piece, collected by the Center for the Study of Elections and Democracy, Brigham Young University, 2002; and Seniors Coalition 2002 direct mail piece, collected by the Center for the Study of Elections and Democracy, Brigham Young University, 2002.

^{iv} 60 Plus 2002 direct mail piece, collected by the Center for the Study of Elections and Democracy, 2002.

^v Roy Moynihan, "U.S. Seniors Group Attacks Pharmaceutical Industry 'Fronts,'" *British Medical Journal*, Feb. 15, 2003.

^{vi} 60 Plus 990 form, 2002.

2002 from PhRMA, the trade association of the brand-name pharmaceutical industry;^{vii} *AARP Bulletin* reported that 60 Plus received contributions in 2001 from PhRMA as well as the drug giants Pfizer, Merck and Wyeth-Ayerst.^{viii}

In the last three years, 60 Plus has relied increasingly on contributions of \$5,000 or more, according to its disclosures to the IRS. The group's 2003 revenue represented a dramatic leap. Its annual revenue from 1999 to 2001 ranged from about \$1.6 million to \$2 million.^{ix}

60 Plus reported to the IRS that it had zero political expenditures from 2000 to 2002, effectively claiming that none of its advocacy communications were intended to influence the outcomes of elections.^x That claim appeared particularly suspect for 60 Plus' communications in at least five U.S. House contests and one U.S. Senate contest in which the group praised or criticized candidates who did not hold federal office and were not in a position to vote on the issues 60 Plus raised.^{xi}

Although 60 Plus bills itself as a non-partisan organization, its electioneering messages in 2002 exclusively benefited Republicans. Martin, the group's president, has long been associated with Republican politics. Among other things, the group's Web site advertises that Martin "was instrumental" in hiring George W. Bush for his first job in politics, working on the successful 1968 U.S. Senate campaign of Edward J. Gurney (R-Fla.).^{xii}

^{vii} Thomas B. Edsall, "High Drug Prices Return as Issue that Stirs Voters; New Challenges for a Lobby Used to Spending," *Washington Post*, Oct. 15, 2002.

^{viii} Bill Hogan, "Pulling Strings From Afar," *AARP Bulletin*, February 2003.

^{ix} 60 Plus 990 forms, 1999-2002.

^x IRS Form 990 instructions, Line 81, 2003. Available at www.irs.gov.

^{xi} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{xii} 60 Plus Web site. Available at www.60plus.org. Viewed on May 26, 2004.

AFL-CIO

The AFL-CIO is a 501(c)(5) federation of 61 labor unions that has been very active in elections. The group disseminated messages in at least 16 U.S. Senate and House contests in 2000 and in at least 14 contests in 2002. The AFL-CIO also ran ads criticizing George W. Bush in 2000 and began an ad campaign in April 2004 that blamed Bush for the offshoring of American jobs because he “stands with his corporate backers, defending tax breaks that actually reward corporations for shipping American jobs to other countries.”ⁱ

The AFL-CIO has budgeted \$44 million to influence the 2004 elections.ⁱⁱ Most, if not all, of the organization’s political ads and mailers since 2000 have criticized Republican candidates or praised Democratic candidates.ⁱⁱⁱ

In 1996, the AFL-CIO was at the forefront of the expansion of 501(c) groups’ use of soft money to influence elections, spending a reported \$35 million on electioneering messages and organizational efforts in congressional districts controlled by Republicans.^{iv} Republicans have cited that example as an impetus to form non-profit groups of their own to broadcast soft money ads, such as Americans for Job Security.^v

The AFL-CIO also is a member of America Votes, an umbrella Section 527 group attempting to coordinate the efforts of pro-Democratic organizations,^{vi} and created the Alliance for Retired Americans, a 501(c)(4) that promoted Democratic candidates in 2002.^{vii}

Many of the AFL-CIO’s principals, and former principals, have deep connections to the Democratic Party and pro-Democratic groups. They include:

- Executive Vice President Linda Chavez-Thompson is vice chairwoman of the Democratic National Committee.^{viii}

ⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

ⁱⁱ “Dispatches from the Democratic National Convention,” AFX International Focus, July 27, 2004.

ⁱⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{iv} Ruth Marcus, “GOP Keeps Fund-raising Lead Despite Trade Groups’ Shift in Giving,” *Washington Post*, Nov. 3, 1996.

^v Jim VandeHei, “Pro-GOP Group Plans \$100 Million ‘Issue Ad’ Blitz,” *Roll Call*, Jan. 15, 1998.

^{vi} Dan Balz and Thomas B. Edsall, “Democrats Forming Parallel Campaign; Interest Groups Draw GOP Fire,” *Washington Post*, March 10, 2004.

^{vii} Robert Dreyfuss, “Till Earth and Heaven Ring,” *The Nation*, July 23, 2001; Thomas B. Edsall, “Liberal Donors Back Anti-Bush Groups,” *Washington Post*, Jan. 31, 2004.

^{viii} Democratic National Committee Web site. Available at www.democrats.org. Viewed on May 20, 2004.

- Steve Rosenthal, who was the AFL-CIO’s political director from 1996 to 2002, is the CEO and co-founder of America Coming Together, a 527 group that expressly aims to defeat Bush.^{ix}
- Joe Velasquez, former head of community services for the AFL-CIO, is a member of the board of directors of American Family Voices, a 501(c)(4) non-profit that has run ads hostile to Bush, and is a consultant to New Mexico Gov. Bill Richardson – who in turn has formed a 527 group to encourage Hispanic turnout in the battleground states in 2004.^x

The AFL-CIO is unusual among 501(c) groups in that the organization typically reports substantial political expenditures in its annual tax filings. In 2000, for instance, the AFL-CIO reported \$1.9 million in political expenditures. In 2002, the organization reported a shade under \$250,000.^{xi}

^{ix} Sharon Theimer, “Arizona Among States Targeted by Soros,” Associated Press, Aug, 10, 2003.

^x American Family Voices 990 form, 2000; American Family Voices 990 form, 2002; “White House 2004 – The Primary NALEO: They Want All 38 Million of Your Votes,” *The Hotline*, June 27, 2003.

^{xi} AFL-CIO 990 form, 2000 and 2002.

Alliance for Retired Americans

The Alliance for Retired Americans (ARA), a 501(c)(4) group, was founded by the AFL-CIO in 2001 and claims 2.7 million members, most of whom are union retirees who were given a free membership.ⁱ

The group's principal effort in the 2002 election cycle was dispatching "Senior Truth Squads" to at least nine highly competitive congressional districts to attack the prescription drug benefit promoted by the GOP. The squads pointed out where the candidates stood on the issues, frequently presenting the Democratic candidate favorably or the Republican candidate unfavorably.ⁱⁱ

"Americans need to know the truth about the Republican prescription drug bill and the candidates that support it. The Alliance also thinks seniors need to know which candidates have supported privatizing Social Security," said an ARA press release issued prior to a Missouri event.ⁱⁱⁱ

The ARA also paid for a billboard advertisement that thanked then-Rep. James Maloney (D-Conn.), who was facing Rep. Nancy Johnson (R-Conn.) in a battle of incumbents in a redistricted seat, for opposing "risky privatization plans" for Social Security.^{iv}

The ARA "spent more than \$1 million to focus voters' attention on prescription drugs in the [2002] election's final days," *Congress Daily* reported. The group's executive director, Ed Coyle, had previously told the publication that the ARA would "work for Democratic candidates" in specified House and Senate contests.^v In its 2002 report to the IRS, however, the ARA reported only \$71,000 in political expenditures.^{vi}

Many ARA principals have backgrounds in the labor movement. ARA President George Kourpias is the former president of the International Association of Machinists (IAM). John Sweeney, the president of the AFL-CIO, helped launch ARA and participated in its rollout tour.

ⁱ Stephen Franklin, "AFL-CIO Launches Senior Group, Aims at Political Action," *Chicago Tribune*, June 6, 2001; Alliance for Retired Americans Web site. Available at www.retiredamericans.org. Viewed on May 26, 2004; "The Alliance for Retired Americans Wants Seniors to Know the Truth About What's at Stake for this November's Mid-Term Elections," U.S. Newswire, Oct. 22, 2002

ⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

ⁱⁱⁱ "The Alliance for Retired Americans Wants Seniors to Know the Truth About What's at Stake for this November's Mid-Term Elections," U.S. Newswire, Oct. 22, 2002.

^{iv} Christopher Keating, "Democrats Push Hard for Two House Seats," *Hartford Courant*, Aug. 27, 2002.

^v "Interest Groups Weigh In On '02 Races," *Congress Daily*, Sept. 23 2002.

^{vi} Alliance for Retired Americans 990 form, 2002.

The group also commissioned a survey by Democratic pollster Peter D. Hart in the lead-up to the 2002 elections. That survey concluded that access to prescription drugs was the primary issue of concern to senior citizens.^{vii}

^{vii} Deborah Barfield Berry, “Inaction Angers Seniors; Frustration Over Drug Bill May Affect Votes, Poll Shows,” *Newsday*, Sept. 5, 2002.

America 21

America 21's chairwoman, former Rep. Helen Chenoweth-Hage (R-Idaho), has said her 501(c)(4) group aims to help America turn back to God by encouraging "moral leadership from our churches" to be heard "in the halls of Congress and across this nation." Chenoweth-Hage has cast the group in the tradition of Lutheran minister Peter Muhlenberg, who issued a call from his pulpit in 1776 that led 300 men in his congregation to join the American Revolution.ⁱ

According to its Web site, America 21 relied in 2002 on a "Muhlenberg Brigade" of pastors who encouraged their parishioners to vote.ⁱⁱ But the group's actual activities in 2002 went well beyond contacting its members, and the issues it discussed were secular.

America 21 sent direct mail in at least 18 federal contests in 2002.ⁱⁱⁱ In one example, America 21 praised Rep. Chip Pickering (R-Miss.) for voting to strengthen Social Security, improve Medicare and repeal the "death tax."^{iv} A professor from Mississippi State University concluded that direct mail sent by America 21 was "very similar" to mailings sent by three organizations that have received money from the pharmaceutical industry – 60 Plus, the Seniors Coalition and the United Seniors Association.^v

In the Colorado 7th District congressional contest between Republican Bob Beauprez and Democrat Mike Feeley, America 21, 60 Plus and the Seniors Coalition sent out direct mail pieces that misspelled the Republican's name identically as "Beuprez." The mailers had similar or identical type faces, and each promoted Beauprez's support for a Medicare prescription drug benefit. The professor who reported on the Colorado mailings characterized America 21 as among the "known shells for the pharmaceutical industry."^{vi}

It appears that a single individual or organization invested heavily in America 21 in 2002. Before 2002, America 21 did not garner the \$25,000 in annual revenue that would have necessitated filing a 990 form.^{vii} In 2002, the group reported \$3.7 million in revenue. Of that, all but \$64,651 was from a single source, according to a redacted copy of the group's report to the IRS. When contacted, America 21 declined to confirm that the contribution came from a single individual

ⁱ America 21 Web site. Available at www.america21.us. Viewed on May 20, 2004.

ⁱⁱ America 21 Web site. Available at www.america21.us. Viewed on May 20, 2004.

ⁱⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{iv} David Breaux, "The 2002 Mississippi Third Congressional District Race," as quoted in *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections*, edited by David E. Magleby and J. Quin Monson, 2003.

^v David Breaux, "The 2002 Mississippi Third Congressional District Race," as quoted in *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections*, edited by David E. Magleby and J. Quin Monson, 2003.

^{vi} Daniel Smith, "Distorted by Outside Money: National Parties and the Race for Colorado's Seventh Congressional District," as quoted in *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections*, edited by David E. Magleby and J. Quin Monson, 2003.

^{vii} America 21 President Tom Smith, conversation with Public Citizen Senior Researcher Taylor Lincoln, April 9, 2004.

source. Despite its significant direct mail effort in the run-up to the 2002 elections, America 21 reported zero political expenditures in its 2002 filing to the IRS.^{viii}

America 21 formed a 527 organization, Margin of Victory, in October 2002 that planned “to promote the election to office of candidates who will uphold the values and morality that traditionally formed the nation’s bedrock.”^{ix} But Margin of Victory raised no money during the 2002 campaign season, the group’s president told Public Citizen.^x The group has filed no forms with the IRS since then, indicating that it has still raised no money.^{xi}

^{viii} America 21 990 form, 2002.

^{ix} “Rep. Chenoweth-Hage, America 21 Launch Margin of Victory Project,” America 21 press release, Oct. 14, 2002

^x America 21 President Tom Smith conversation with Public Citizen Senior Researcher Taylor Lincoln, April 9, 2004.

^{xi} IRS Web Site, Political Organizations Section. Available at www.irs.gov/charities/political/index.html. Viewed on June 24, 2004.

American Family Voices

American Family Voices (AFV), a 501(c)(4) group, reportedly received an initial \$800,000 contribution from the American Federation of State, County and Municipal Employees (AFSCME) in 2000.ⁱ But the actual sum may have been nearly twice that reported figure. AFV reported to the IRS that it received only one contribution of as much as \$800,000 that year, and that contribution was for nearly \$1.5 million.ⁱⁱ (Donors' names are not generally a matter of public record.)

AFV spent at least \$640,000 on television commercials that benefited Al Gore in his race against George W. Bush in 2000.ⁱⁱⁱ Since then, the group has engaged in sporadic attacks against Bush. An advertisement in 2002 connected the administration to corporate scandals by recalling Bush's controversial sale of more than 212,000 shares of Harken Energy stock in 1990 (two months before the company declared a \$23.2 million loss)^{iv} and then-Securities and Exchange Commission Chairman Harvey Pitt's previous service as a corporate lawyer. A 2004 ad criticized the Bush administration for federal contracts given to Halliburton Corp.^v

AFV's principals and consultants include Mike Lux, a former Clinton administration staffer who has worked for a multitude of Democratic campaigns and political groups; former Clinton adviser and Democratic celebrity James Carville; and Phyllis Cuttino, who is in charge of state and local campaigns for AFSCME. The Glover Park Group, which includes Clinton administration alums Joe Lockhart and Carter Eskew, has produced ads for AFV.^{vi}

AFV reported to the IRS making zero political expenditures in 2000, 2001 and 2002.^{vii} In effect, the group claimed that none of its communications were intended to influence the outcomes of elections.^{viii} That claim seems unlikely in certain cases, particularly regarding ads in 2000 that AFV ran in Pennsylvania, Michigan and Missouri to criticize the health care policies of then-Texas Gov. George W. Bush.^{ix} Bush was in no official position at the time to influence federal health care policies or the health care policies of the states in which the ads ran.

ⁱ Byron York, "The Group Behind the Attacks on Bush," *National Review Online*, July 12, 2002.

ⁱⁱ American Family Voices 990 form, 2000.

ⁱⁱⁱ Campaign Media Analysis Group (CMAG) reports, 2000.

^{iv} "Bush and Harken Energy," the *Guardian*, July 10, 2002.

^v Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{vi} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{vii} American Family Voices 990 forms, 2000-2002.

^{viii} IRS Form 990 instructions, Line 81, 2003. Available at www.irs.gov.

^{ix} CMAG reports, 2000.

AFV's income has risen during election years and declined during non-election years, hitting a peak of nearly \$2.3 million in 2000 and a low point of \$106,392 in 2001, before modestly rebounding to \$455,758 in 2002.^x

^x American Family Voices 990 forms, 2000-2002.

Americans for Job Security

Americans for Job Security (AJS), a 501(c)(6), spun off in the late 1990s from a group called The Coalition: Americans Working for Real Change, a group that had been formed by the U.S. Chamber of Commerce to counteract the extensive soft money spending by the AFL-CIO starting in the 1996 elections.ⁱ

AJS has stated to the IRS that its purpose is “educating the public on economic issues with a pro-market, pro-paycheck message.”ⁱⁱ The group, in reality, does not appear tied to any unifying ideological mission other than helping the electoral pursuits of favored candidates, who have been exclusively Republicans throughout the organization’s history.

AJS’s ads in 2002, for instance, attacked Democratic candidates for such disparate offenses as breaking a promise not to run for a third term, taking money from special interests, being soft on crime, being anti-senior citizen, getting “too comfortable in Washington,” and voting against converting Nevada’s Yucca Mountain into a nuclear waste storage site. AJS praised Republican candidates for obtaining aid for ranchers, helping to pass the No Child Left Behind Act, and championing legislation to remove disruptive kids from classrooms.ⁱⁱⁱ

AJS typically spends nearly all its budget on political commercials, which the group terms “grassroots lobbying,” and most of those commercials are broadcast during the political campaign season.^{iv} In 2002, 100 percent of the group’s 2,172 television commercials were aired within the two months leading up to Election Day.^v Reviewers at the Wisconsin Advertising Project, the foremost academic research program assessing the political content of television ads, concluded that 100 percent of AJS’s 2000 and 2002 television ads consisted of electioneering communications, not issue advocacy.^{vi}

AJS’s roster of officers and consultants is a team of Republican Party alumni. One consultant served as director of political affairs for President George H.W. Bush as national field director for his 1992 campaign. The group’s president worked on George H.W. Bush’s 1992 campaign. The group’s lawyer, Benjamin Ginsberg, has served as national counsel to George W. Bush’s presidential campaigns in 2000 and 2004, the Republican National Committee and a multitude of Republican candidates and organizations.^{vii}

ⁱ Jim VandeHei, “Republicans Divided On Issue Advocacy,” *Roll Call*, April 15, 1998.

ⁱⁱ Americans for Job Security 990 form, 2001.

ⁱⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{iv} Nicholas Confessore, “Bush’s Secret Stash,” *Washington Monthly*, May 2004.

^v Ken Goldstein and Joel Rivlin, “Political Advertising in the 2002 Elections,” Wisconsin Advertising Project, Oct. 29, 2003.

^{vi} “2002 Spending By Groups Which Had 527s,” Wisconsin Advertising Project, June 23, 2004; Nicholas Confessore, “Bush’s Secret Stash,” *Washington Monthly*, May 2004.

^{vii} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

Since early revelations that AJS was seeded with \$1 million each from the American Forest and Paper Association and the American Insurance Association, the group has jealously guarded its list of funders.^{viii} *The National Journal* reported in December 2003 that about 500 corporations and individuals ante up contributions “as high as \$100,000” to AJS.^{ix}

AJS claimed zero political expenditures in its filings with the IRS that covered calendar years 2000 to 2002.^x In effect, the group claimed that none of its advocacy communications were intended to influence the outcomes of elections.^{xi} But if the IRS were to agree with the findings of the academic reviewers at the Wisconsin Advertising Project that 100 percent of AJS’s commercials were intended to influence the outcomes of elections, as opposed to issue ads, AJS would potentially be in violation of the terms of its 501(c) status. Electioneering activities may not constitute a 501(c) group’s primary purpose.^{xii} If AJS were classified as a 527 organization, the status reserved for political organizations, the group would be required to disclose its sources of funding.

^{viii} Michael Isikoff, “The Secret Money Chase,” *Newsweek*, June 5, 2000; Peter H. Stone, “Issue Ads: Weapons of Choice,” *National Journal*, Oct. 31, 1998; Eric Black and Greg Gordon, “Group Buying Anti-Wellstone Ads Targets States With Close Races,” *Star-Tribune*, Oct. 24, 2002.

^{ix} Peter H. Stone, “A Catalog of Key Groups,” *National Journal*, Dec. 20, 2003.

^x Americans for Job Security 990 forms, 1999-2001.

^{xi} IRS Form 990 Instructions, Line 81, 2003. Available at www.irs.gov.

^{xii} John Francis Reilly and Barbara A. Braig Allen, “Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations,” Exempt Organizations-Technical Instruction Program for FY 2003, p. L-3.

Americans for Tax Reform

Americans for Tax Reform (ATR), a 501(c)(4) anti-tax organization headed by conservative strategist Grover Norquist, spent \$4.2 million in September 1999 on ads ostensibly urging support in seven states for the GOP's tax-cut plan. Although Norquist claimed the ad campaign "was not based on elections," each of the seven versions of the ad praised a Republican senator who was facing re-election, and each ad named that senator as the leader of a plan to provide tax relief.ⁱ

ATR's 2000 election cycle spending was likely heaviest in Michigan, where the group spent an estimated \$1 million on advertisements praising Republican Sen. Spencer Abraham during his re-election bid against Democratic Rep. Debbie Stabenow.ⁱⁱ Though the ads aired in fall 1999, the Abraham-Stabenow race was already viewed as among the closest Senate contests.

Norquist also served in 1999 as a lobbyist for Microsoft Corp.ⁱⁱⁱ Microsoft reportedly gave about \$250,000 to the Michigan Chamber of Commerce and an unspecified amount of money to Americans for Job Security in 2000 to run ads attacking Stabenow or promoting Abraham.^{iv}

ATR also funded ads during the 2000 Republican presidential primaries questioning the political agenda of Sen. John McCain (R-Ariz.) and criticizing his push for a campaign finance reform bill. The ad claimed that McCain, who was opposing George W. Bush in the primaries, wanted to make taxpayers pay for political campaigns. The ad also stated that conservative leaders had called McCain's agenda "dangerous, reckless and dishonest."^v New Hampshire's GOP chairman called the ads "a disgrace" and a "mischaracterization of John McCain's record and views."^{vi}

In Washington, Norquist conducts weekly strategy sessions that are attended by Republican congressional heavyweights and White House officials.^{vii} He also is among the leaders of the "K Street Project," which aims to place Republicans in key lobbying positions.^{viii}

A copy of ATR's 1999 tax return containing its list of contributors was obtained by a reporter. Major contributors included Philip Morris (\$685,000) and the Mississippi Band of Choctaw Indians (\$360,000), who were represented by lobbyist Jack Abramoff, a prominent Republican

ⁱ "Group Hopes \$4 Million in Ads Will Influence Tax Debate," Associated Press, Sept. 1, 1999.

ⁱⁱ Gebe Martinez, "Michigan Senate Race Tightest in U.S.," *Detroit News*, Jan. 17, 2000.

ⁱⁱⁱ Lobbying Disclosure Reports Filed With the Secretary of the Senate and the Clerk of the House Pursuant to the Lobby Disclosure Act of 1995. Available at sopr.senate.gov.

^{iv} Gebe Martinez, "GOP Tapped Tech Execs to Aid Abraham; Senate Republicans Sought Industry Cash to Offset Negative Ads," *Detroit News*, May 17, 2000; IRS Form 990 Instructions, Line 81, 2003. Available at www.irs.gov.

^v Campaign Media Analysis Group (CMAG) reports, 2000.

^{vi} "White House 2000 McCain: New Year's Ad Push," *The Hotline*, Jan. 4, 2000.

^{vii} Laura Blumenfield, "Sowing the Seeds of GOP Domination; Conservative Norquist Cultivates Grass Roots," *Washington Post*, Jan. 12, 2004.

^{viii} Judy Sarasohn, "GOP Activists Chafe at H&R Block Hire," *Washington Post*, Feb. 12, 2004.

fundraiser.^{ix} Other corporate contributors included Microsoft, Pfizer, AOL Time Warner and UPS.^x

ATR has reported to the IRS having zero political expenditures in 2000, 2001 and 2002.^{xi} In effect, the group claimed that none of its advertisements were intended to influence elections. These would have included ads criticizing McCain during the peak of the New Hampshire primary campaign in 2000.^{xii}

^{ix} Lobbying disclosure reports filed with the Secretary of the Senate and the Clerk of the House pursuant to the Lobby Disclosure Act of 1995. Available at sopr.senate.gov.

^x Robert Dreyfuss, "Grover Norquist: 'Field Marshal' of the Bush Tax Plan," *The Nation*, May 14, 2001.

^{xi} Americans for Tax Reform, 990 forms, 2000-2002.

^{xii} IRS Form 990 instructions, Line 81, 2003. Available at www.irs.gov.

American Taxpayers Alliance

The American Taxpayers Alliance (ATA), a 501(c)(4), has made a practice of stirring controversy by broadcasting attack ads while refusing to disclose its funding sources. But press reports and tax documents show that at least some of the group's funding has come from electric utility firms and the U.S. Chamber of Commerce.

After the ATA ran ads blaming Democratic Gov. Gray Davis for the California's energy crisis in the summer of 2001, Davis sued the group, claiming it had violated state law by failing to register as a political committee and refusing to disclose its contributors. A San Francisco judge sided with Davis, but an appeals court overruled that decision because the ATA had not crossed the "express advocacy" threshold of saying to "vote for" or "vote against" a candidate.ⁱ Davis' campaign subsequently paid the ATA \$100,000 to cover legal fees.ⁱⁱ

Newsweek later reported that two energy companies, Reliant Energy and Duke Power, funded the ATA's entire \$1.8 million ad campaign.ⁱⁱⁱ The ATA's filing with the IRS reported that two individuals or organizations contributed nearly \$2 million and \$600,000, respectively, to the group in 2001, accounting for 79 percent of the group's revenue.^{iv}

In 2002, the Sangamon County (Ill.) Democratic Party filed a complaint with the Illinois State Board of Elections charging that ATA-sponsored attack ads against Democratic state Supreme Court candidate Sue E. Myerscough amounted to a campaign contribution to her opponent. The board deadlocked 4-to-4 along party lines.^v In response to ads aired by the ATA and the Law Enforcement Alliance of America (LEAA) in 2002, the Illinois legislature passed a law stipulating that independent groups that spend more than \$3,000 on communications mentioning candidates' names in the two months before state elections must file as political committees, which requires disclosure of revenues and expenditures.^{vi}

In October 2002, the ATA funded automated telemarketing messages that flashed "Win \$100,000 Cash" on the caller ID displays of Missouri residents' telephones. Those who answered their phones then heard a recording asking them to thank Jim Talent for working to cut taxes. Talent, a former Republican congressman, was challenging incumbent Democrat Jean Carnahan to represent Missouri in the U.S. Senate. (ATA said the "Win \$100,000 Cash" message was inadvertent.)^{vii}

ⁱ David Kravets, "Group that Attacked Governor Avoids Disclosure," Associated Press, Sept. 27, 2002.

ⁱⁱ Mark Sherman, "Davis Pays \$100,000 for Lawsuit over Television Ads," Associated Press, May 13, 2003.

ⁱⁱⁱ Michael Isikoff, "Winks, Nods & Corporate Cash; One Wired GOP Lobbyist's Playbook for Wielding Influence," *Newsweek*, Feb. 25, 2002.

^{iv} American Taxpayers Alliance 990 form, 2001.

^v Bernard Schoenburg, "Election Board Delays Ruling on Garman Ads," *State Journal-Register* (Springfield, Ill.), Nov. 5, 2002.

^{vi} Rupert Borgsmiller, Illinois State Board of Elections Director of Campaign Disclosure, interview with Public Citizen Senior Researcher Taylor Lincoln, June 24, 2004.

^{vii} Deidre Shesgreen, "Group's Appeal on Behalf of Talent Advertised \$100,000 Prize on Caller ID," *St. Louis Post-Dispatch*, Oct. 25, 2002.

The ATA also was among three groups that reportedly combined to spend \$1 million in Mississippi's 2003 races for governor, lieutenant governor and attorney general.^{viii}

The ATA is led by Scott W. Reed, a lobbyist and Republican operative. Reed managed Bob Dole's 1996 presidential campaign, served as executive director of the Republican National Committee under Haley Barbour (who received the ATA's assistance in his 2003 Mississippi gubernatorial bid), and established the Republican Leadership Coalition, a 527 organization that aimed to win Hispanic support for Republican candidates.^{ix}

Though the ATA resisted Gray Davis' lawsuit to avoid disclosing its funders in 2001, the group revealed its major 2002 contributors' names (most likely mistakenly) in the 2002 tax form it provided Public Citizen. Its top contributor that year was the U.S. Chamber of Commerce, which gave \$2.6 million. The ATA received about \$2.3 million of that contribution in the month before Election Day.^x The Chamber reportedly employed a strategy of funding outside groups to influence judicial elections in 2002, making its role more discrete than in 2000 when it broadcast ads under its own name.^{xi}

For each of the years 2000, 2001 and 2002, the ATA reported to the IRS that it made zero political expenditures.^{xii} In contrast to the express advocacy standard the California court relied on to rule in the Gray Davis case, the IRS defines a political expenditure as any that aims to influence the outcome of an election.^{xiii} Thus, the ATA's disclosure of zero political expenditures effectively claimed to the IRS that none of its advocacy communications were intended to influence the outcomes of elections. That claim seems particularly dubious in the case of the message praising Talent, who held no political office when the ATA sent out its laudatory telemarketing calls.

^{viii} "Three Groups Spend more than \$1 Million on Election Ads," Associated Press, Oct. 13, 2003.

^{ix} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff; Ron Fournier, "Republican Strategist Behind Drive to Court Hispanics," Associated Press, Oct. 17, 1999.

^x American Taxpayers Alliance 990 form, 2002.

^{xi} Robert Lenzner and Matthew Miller, "Buying Justice; For Years Trial Lawyers Owned State Courts. Now Big Business Is Striking Back," *Forbes*, July 21, 2003.

^{xii} American Taxpayers Alliance 990 forms, 2000-2002.

^{xiii} IRS Form 990 instructions, Line 81, 2003. Available at www.irs.gov.

Brady Campaign to Prevent Gun Violence

The Brady Campaign to Prevent Gun Violence, a 501(c)(4), is the lobbying and electioneering extension of the Brady Center, a gun-control organization founded by Sarah Brady after her husband, Jim, was paralyzed during the 1981 attempted assassination of President Reagan. The group was known as Handgun Control until 2001.ⁱ

The group lists the election of pro-gun-control officials among its objectives.ⁱⁱ During the 2002 election cycle, the Brady Campaign disseminated communications involving at least three political contests.ⁱⁱⁱ

In the Michigan 15th District congressional primary pitting Democratic Reps. John Dingell and Lynn Rivers, the Brady Campaign spent a reported \$18,000 on a radio ad attacking Dingell's gun-safety record. The ad featured a Michigan member of the Million Moms March, who said, "When it comes to reducing gun violence, Mr. Dingell has let Michigan down." The Brady Campaign and Million Moms March also launched an anti-gun, anti-Dingell Web site during the campaign, www.DingellandGuns.com.^{iv}

In 2002, the Brady Campaign also ran ads attacking Maryland Republican gubernatorial candidate Bob Ehrlich and distributed direct mail and telemarketing messages favoring Missouri Democratic Sen. Jean Carnahan in her failed bid for re-election.^v

The group reported to the IRS that it had zero political expenditures in each year from 2000 to 2002.^{vi} In effect, the group claimed that none of its communications were intended to influence the outcomes of elections.^{vii}

In 2003, the Brady Campaign's PAC was fined \$26,000 by the Federal Election Commission for failing to properly disclose \$200,000 it spent on mailings in 2000 opposing two Republican House candidates, Reps. Ernest Fletcher (R-Ky.) and Pat Toomey (R-Pa.).^{viii}

Several of the Brady Campaign's principal officers and directors have ties to the Democratic Party. Brady Campaign President Michael Barnes served in the House as a Maryland Democrat

ⁱ Judy Sarasohn, "Lott Upset Chamber's Firing of Executive," *Washington Post*, June 14, 2001.

ⁱⁱ Brady Campaign Web site. Available at www.bradycampaign.org. Viewed on July 9, 2004.

ⁱⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{iv} Maryanne George, "15th Congressional District: Dingell, Rivers Trade Verbal Shots," *Detroit Free Press*, Aug. 1, 2002.

^v Ryan Connors, "Brady Campaign Targets Ehrlich," *National Journal*, June 5, 2002; Martha Kropf, E. Terrence Jones, Matt McLaughlin and Dale Neuman, "The 2002 Missouri Senate Race," as quoted in *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections*, edited by David E. Magelby and J. Quin Monson, 2003.

^{vi} Brady Campaign 990 forms, 2000-2002.

^{vii} Christopher Lee, "Special-Interest Group Focuses On Kids," *Washington Post*, Oct. 20, 2002.

^{viii} "Brady Anti-Gun Group Pays FEC Fine," Associated Press, Dec. 4, 2003.

from 1979 to 1987. Michael S. Berman, a member of the board of directors, was an aide to Vice President Walter Mondale and served as treasurer to the 1984 Mondale-Ferraro presidential campaign. Tony Orza, the Brady Campaign's director of government relations, worked as the legislative counsel for Sen. Frank Lautenberg (D-N.J.) and as general counsel for Sen. Chris Dodd (D-Conn.)^{ix}

^{ix} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

Business Roundtable

The Business Roundtable, a 501(c)(6) association of the CEOs of major companies, broadcast advertisements in at least 18 federal contests in 2000,ⁱ including expenditures of more than \$650,000 promoting Michigan incumbent Republican Sen. Spencer Abraham in his race against Democratic Rep. Debbie Stabenow.ⁱⁱ

Though the group intervened in as few as four contests in 2002, it chose particularly competitive ones, including the Pennsylvania match-up pitting House incumbents Republican George Gekas and Democrat Tim Holden.ⁱⁱⁱ

The Business Roundtable also teamed with the U.S. Chamber of Commerce to support the Chamber's Institute for Legal Reform, an organization that spent \$43.4 million in 2002 assisting the electoral pursuits of pro-business judges and pursuing legislation to reduce plaintiffs' rights.^{iv}

Few, if any, of the Business Roundtable's ads mentioning candidates in 2000 and 2002 appear to escape categorization as political communications if measured against the standard used by the IRS. The group's main ad in 2000 lauded chosen candidates for helping create a world for children that would include "the best education possible, a meaningful job, and an America opening foreign markets around the world, spreading peace and prosperity." The ad then instructed viewers to call the candidate "and thank him [or her] for fighting for us and them."^v

The ad did not mention any specific bill under consideration by Congress, a criterion for a communication to escape categorization as "political" by the IRS.^{vi}

The Business Roundtable ran the ad on behalf of at least four candidates who were not in Congress at the time and, thus, were in no position to act on the issues put forth in its ad. The IRS is less apt to deem a communication mentioning a candidate as "political" if it concerns a public official who is in a position to act on the issues in an ad.^{vii}

Despite the Business Roundtable's apparent attempt to influence the outcome of elections, the group reported zero political expenditures in 2000 and every other year for which Public Citizen has obtained its tax forms.^{viii}

ⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

ⁱⁱ Public Citizen analysis of 2000 *Buying Time* Database.

ⁱⁱⁱ Brett Lieberman, "Outsiders Start Their Political Ads," *Harrisburg Patriot-News*, July 23, 2002.

^{iv} Institute for Legal Reform 990 form, 2002; Peter H. Stone, "New Channels for Campaign Cash," *National Journal*, Feb. 23, 2002.

^v Campaign Media Analysis Group (CMAG) reports, 2000.

^{vi} Internal Revenue Bulletin: 2004-4, Internal Revenue Service, Jan. 26, 2004.

^{vii} Internal Revenue Bulletin: 2004-4, Internal Revenue Service, Jan. 26, 2004.

^{viii} Business Roundtable 990 forms, 1999-2003.

Citizens for a Sound Economy

Note: Citizens for a Sound Economy merged with Empower America in July 2004 to form a new group called Freedom Works.

Citizens for a Sound Economy (CSE), a 501(c)(4), made no secret of its efforts to influence the outcomes of the 2002 elections, despite reporting otherwise to the IRS. The organization has continued its involvement in electioneering activities in 2004.

A CSE press release issued on Election Day 2002 boasted that the group “let voters” in at least nine states “know which candidates will fight for lower taxes, less government, and more freedom.”ⁱ The group was especially active in four heated U.S. Senate races.ⁱⁱ But CSE reported to the IRS that it made zero political expenditures from 2000 to 2002, the most recent year for which its tax information is available.ⁱⁱⁱ In effect, CSE claimed that none of its mailings, radio advertisements and telemarketing campaigns were intended to influence the outcomes of elections.^{iv}

This claim was further undercut by CSE’s praise or criticism of several candidates who were not public officials at the time. The IRS is less likely to deem a message “political” if it identifies a candidate by name who is a government official in a position to act on a policy issue covered by the message.^v None of the major party candidates for the U.S. Senate in the North Carolina and Texas, where CSE was active, held federal office at the time of CSE’s communications.

CSE’s apparent electioneering activities included mailing brochures to 25,000 North Carolinians quoting Republican U.S. Senate candidate Elizabeth Dole as saying, “To our seniors on Social Security, I will never vote to reduce your benefits.” The group also broadcast a radio ad in which a volunteer told an elderly voter that “it’s Elizabeth Dole who will protect Social Security” and that “her opponent [Democrat Erskine Bowles] has been trying to frighten seniors – and that’s wrong.”^{vi}

In New Hampshire, CSE’s activities included running a radio advertisement calling Democratic U.S. Senate candidate Jeanne Shaheen a “Taxing Machine” and mailing 75,000 flyers stating that “Governor Jeanne Shaheen Jeopardizes America’s Energy Security.”^{vii} CSE also ran a telemarketing campaign in South Dakota criticizing the positions of Democratic Sen. Tim

ⁱ “CSE Connects Directly with Over 1.7 Million Voters,” Citizens for a Sound Economy press release, Nov. 5, 2002.

ⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

ⁱⁱⁱ Citizens for a Sound Economy 990 forms, 2000-2002.

^{iv} IRS Form 990 Instructions, Line 81, 2003. Available at www.irs.gov.

^v Internal Revenue Bulletin: 2004-4, Internal Revenue Service, Jan. 26, 2004.

^{vi} “North Carolina Ad Blitz: Seniors Trust Dole on Social Security!” Citizens for a Sound Economy press release, Oct. 31, 2002.

^{vii} “New Hampshire Ad Blitz: ‘Jeanne Shaheen is a Taxing Machine!’” Citizens for a Sound Economy press release, Oct. 31, 2002; “CSE Principles for Reliable Energy,” Citizens for a Sound Economy brochure, October 2002. Available at www.cse.org/reports/shaheen_brochure.pdf. Viewed on June 3, 2004.

Johnson on gas taxes and oil exploration. In Texas, the group made 17,000 “targeted phone calls to registered voters statewide.”^{viii}

CSE’s chairman is former House Majority Leader Dick Armey (R-Texas). Members of its board of directors include C. Boyden Gray, former counsel to President George H.W. Bush and a spokesman for the Electric Reliability Coordinating Council, an industry group that has pushed for relaxed requirements for power plants to install modern pollution controls.^{ix}

CSE also has close ties to the libertarian Cato Institute. CSE co-founder David H. Koch is a member of Cato’s board of directors.^x Koch is also executive vice president of Koch Industries, an oil and gas company that paid a \$35 million fine in 2000 (the largest civil penalty ever imposed under the Clean Water Act) for failing to stop more than 300 leaks that spilled 3 million gallons of oil over a seven-year period.^{xi}

CSE claims on its Web site to represent “280,000 members” who “have been fighting for lower taxes, less government, and more freedom.”^{xii} From 2000 to 2002, however, 79 percent of the group’s funding has come from an average of 56 donors per year who have each given at least \$5,000.^{xiii} Though the group does not publicly disclose the names of its donors, a copy of CSE’s 1998 budget obtained by Public Citizen revealed that CSE’s big contributors that year included Philip Morris (\$945,550), U.S. West Communications (\$690,500) and Koch Industries (\$374,000).^{xiv}

CSE is active again in 2004. The group claimed that it was targeting more than 25,000 voters in the closing days before the Pennsylvania Republican U.S. Senate primary matching incumbent Sen. Arlen Specter and Rep. Pat Toomey. CSE backed the challenger with pro-Toomey messages in an effort to “educate likely Republican primary voters about the key differences between” the two candidates.^{xv}

The group also held an event in June 2004 to assist independent presidential candidate Ralph Nader’s bid to win a spot on the Oregon presidential ballot. “Ralph Nader needs 1,000 signatures to qualify for the ballot, and we need to make sure he gets them,” the script to a CSE telemarketing message said. “Ralph Nader is undoubtedly going to pull some crucial votes from John Kerry, and that could mean the difference in a razor-thin presidential election.”^{xvi}

^{viii} “CSE Mobilizes Voters in South Dakota,” Citizens for a Sound Economy press release, Nov. 4, 2002; Election 2002 Round Up,” Citizens for a Sound Economy press release, Nov. 8, 2002; “CSE Mobilizes Voters in New Hampshire,” Citizens for a Sound Economy press release, Oct. 29, 2002.

^{ix} Citizens for a Sound Economy Web site. Available at www.cse.org. Viewed on May 21, 2004.

^x Citizens for a Sound Economy Web site. Available at www.cse.org. Viewed on May 21, 2004.

^{xi} “Pipeline Operator Agrees to Huge Fine; Texas Leaks Covered by \$35 million penalty,” *Ft. Worth Star Telegram*, Jan. 14, 2000.

^{xii} Citizens for a Sound Economy Web site. Available at www.cse.org. Viewed on May 21, 2004.

^{xiii} Citizens for a Sound Economy 990 forms, 2000-2002.

^{xiv} “Corporate Shill Enterprise: A Public Citizen report on Citizens for a Sound Economy, a Corporate Lobbying Front Group,” Public Citizen, Oct. 6, 2000.

^{xv} “In Toomey vs. Specter Race, CSE Tells the ‘Tale of Two Candidates,’ ” Citizens for a Sound Economy press release, April 26, 2004. Available at www.cse.org. Viewed on May 26, 2004.

^{xvi} CSE telemarketing script, “Nader Event,” June 26, 2004.

Citizens United

Citizens United, a 501(c)(4), has a Web site that reads like a commercial promoting President Bush's re-election, a message that is reinforced by the group's paid media communications.

The front page of the group's Web site says, "The left has been attacking our President for months, on everything from tax cuts, to fighting the war on terror, to his service in the National Guard. Citizens United is fighting back." Elsewhere on the site, Citizens United President David Bossie complains that liberal financier George Soros "has declared war on President Bush and his positive agenda for America." Bossie promises to do everything within his power to "run counter-ads in support of the President."ⁱ

In May, Citizens United broadcast a television ad that satirically referred to presumptive Democratic nominee John Kerry as a "man of the people," while ticking off the financial values of Kerry's assets.ⁱⁱ

The group also is running a pair of commercials on its Web site, "webmercials" in Citizen United's parlance, that feature firefighters praising President Bush for his guidance on national security issues. The page that provides links to the commercials notes that the national firefighters union has endorsed Kerry, but argues that Bush "has secured more funding and support for America's firefighters and law enforcement officers than any other president."ⁱⁱⁱ

The organization also ran an ad in March 2003, narrated by former Sen. Fred Thompson (R-Tenn.), which praised President Bush for invading Iraq. "Thank goodness we have a president with the courage to protect our country," Thompson said in the ad.^{iv} That ad was produced by Alex Castellanos, a GOP media consultant who was responsible for a 2000 attack ad against Al Gore that flashed the word "Rats" on screen for a split second while disparaging the vice president's prescription drug proposals.^v

Citizens United's recent messages were mild compared to those that the organization's principals produced in previous election seasons. While affiliated with a group called "Americans for Bush," Citizens United Chairman Floyd G. Brown helped create the "Willie Horton" ad that ran in the weeks preceding the 1988 election between George H.W. Bush and Gov. Michael Dukakis (D-Mass.). The ad blamed Dukakis for a furlough program that allowed Horton to spend a weekend out of jail during which he raped a woman.^{vi}

ⁱ Citizens United Web site. Available at www.citizensunited.org. Viewed on May 21, 2004.

ⁱⁱ Citizens United Web site. Available at www.citizensunited.org. Viewed on May 21, 2004.

ⁱⁱⁱ Citizens United Web site. Available at www.citizensunited.org. Viewed on May 21, 2004.

^{iv} Citizens United Web site. Available at www.citizensunited.org. Viewed on May 21, 2004.

^v Mark H. Rodeffer, "Must-See Argument Over War in Iraq," *National Journal*, March 3, 2003; Z. Barabak, "Ad Will Blame Davis for Crisis Politics," *Los Angeles Times*, June 16, 2001.

^{vi} Maralee Schwartz and Lloyd Grove, "TV Ads to Depict Gov. Dukakis as Coddling Criminals," *Washington Post*, Sept. 4, 1988.

“When we’re through, people are going to think that Willie Horton is Michael Dukakis’ nephew,” Brown told the *Washington Post* at the onset of that ad campaign.^{vii}

During the 1992 presidential campaign, Brown created an advertisement that offered viewers a chance to “get to know Bill Clinton the way Gennifer Flowers did” by making a \$4.95 telephone call that would provide snippets of a taped conversation between Clinton and Flowers. Though Brown was with Citizens United at the time, it is unclear if Citizens United was behind the ad.^{viii}

Current Citizens United President Bossie pursued Clinton relentlessly throughout his administration. Early on, he wrote for “Clinton Watch,” a Citizens United newsletter that probed Clinton’s past. He went on to work for a Senate committee investigating the Whitewater matter, and then as the investigative coordinator of the House Government Reform Committee, which focused on Clinton’s campaign fundraising and was criticized by Democrats for using unethical tactics. Bossie resigned after it was revealed that he had supervised the editing of exculpatory remarks from jailhouse tapes made by former Associate Attorney General Webster L. Hubbell. Bossie had pressed the committee to release the tapes.^{ix}

Based on Citizens United’s Web site, it appears that at least a substantial part of the organization’s efforts are devoted to influencing the outcome of the 2004 presidential election. If it were determined that the group’s primary purpose was affecting the outcome of the election, the group could be in violation of the IRS prohibition against 501(c) groups devoting themselves primarily to electioneering activities.^x

But Citizen United’s own focus on electioneering has not prevented the group from questioning the legality of other group’s activities. In June 2004, Citizens United filed a complaint with the FEC claiming that commercials for Michael Moore’s movie *Fahrenheit 9/11*, a film that is critical of Bush, would violate the Bipartisan Campaign Reform Act’s prohibition against the broadcast of corporate communications mentioning candidates’ names in the 60 days preceding a general election or the 30 days before a primary or convention.^{xi}

^{vii} Maralee Schwartz and Lloyd Grove, “TV Ads to Depict Gov. Dukakis as Coddling Criminals,” *Washington Post*, Sept. 4, 1988.

^{viii} Judith Colp, “The GOP’s own ‘Dennis the Menace’ New Attack Ads Target Clinton,” *Washington Times*, July 10, 1992.

^{ix} Amy Keller and Jim VandeHei, “Bossie’s Departure May Hurt GOP Pipeline to Starr’s Team,” *Roll Call*, May 11, 1998; Mark Lacey, “Dirt-Digging on Clinton Leaves Critic in a Hole,” *Los Angeles Times*, May 7, 1998.

^x John Francis Reilly and Barbara A. Braig Allen, “Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations,” Exempt Organizations-Technical Instruction Program for FY 2003, p. L-3.

^{xi} Jessica E. Vascellaro, “Movie Tests Campaign Rule; ‘Fahrenheit 9/11 Might Run Afoul of Law, Group Says,” *Boston Globe*, June 27, 2004.

Every Child Matters

Every Child Matters (ECM), a 501(c)(4), jumped into the 2002 election fray hoping to become a prominent voice for children's issues.ⁱ

In 2002, ECM reportedly spent \$250,000 to \$600,000 on ads attacking incumbent Sen. Wayne Allard (R-Colo.).ⁱⁱ The ads accused Allard of being among a handful of senators to vote against health insurance for children and the only senator to vote against protecting babies from fetal alcohol syndrome.

ECM's 501(c)(4) entity is affiliated with a 501(c)(3) entity and a 527 group. Though ECM declined Public Citizen's request for a breakdown of their activities, the Colorado ads were evidently funded by both its 501(c)(4) and 527 accounts. This was reflected in an interview in which the group's political director told the *Rocky Mountain News* that contributors funding the Colorado ad campaign had a choice of whether to have their names disclosed or to remain anonymous.ⁱⁱⁱ Donors to a 501(c)(4) may remain anonymous.

ECM's political director said the group chose the Strickland-Allard contest for its maiden ad campaign partly because of the competitiveness of the race – polls at the time showed the two neck-and-neck.^{iv} But in its disclosure to the IRS, ECM listed zero political expenditures,^v effectively claiming that none of the ads funded by its 501(c)(4) were intended to influence the outcomes of elections.

So far in the 2004 election cycle, ECM's activities have been limited to non-partisan efforts by its 501(c)(3) entity, including candidates' forums and polls intended to draw attention to children's issues.

ECM received 72 percent of its \$339,975 in 2002 revenue from a single anonymous contributor.^{vi} Film director Rob Reiner is reportedly among the group's backers.^{vii}

ⁱ Christopher Lee, "Special-Interest Group Focuses On Kids," *Washington Post*, Oct. 20, 2002.

ⁱⁱ Mike Soraghan, "Environmentalists Tap 'Soft' Money," *Denver Post*, Oct. 28, 2002

ⁱⁱⁱ Karen Abbott, "DA Rips 'Stealth' Group; But Virginia Backers of Allard don't have to disclose names," *Rocky Mountain News*, Oct. 25, 2002.

^{iv} Karen Abbott, "Child TV Ad Takes Shot at Allard," *Rocky Mountain News*, Oct. 19, 2002.

^v Every Child Matters 990 form, 2002.

^{vi} Every Child Matters 990 form, 2002.

^{vii} Christopher Lee, "Special-Interest Group Focuses On Kids," *Washington Post*, Oct. 20, 2002.

Grassfire.org

Grassfire.org, a 501(c)(4), is an Iowa-based “alliance of conservative citizens,” that has disseminated messages supporting President Bush’s re-election bid.ⁱ

Grassfire began a campaign of pro-Bush and anti-Kerry ads in late 2003.ⁱⁱ Grassfire’s first ad, in December 2003, chronicled torture of Iraqi people at the hands of Saddam Hussein, and asked viewers to tell Congress and the media that they support President Bush. The second ad criticized the pro-Democratic organization MoveOn.org, and urged viewers to show groups like MoveOn.org that “right-minded Americans” support the president. The third ad castigated John Kerry for voting against military spending, supporting gay rights, and opposing both tax cuts and the balanced budget amendment.ⁱⁱⁱ

The group appears to harbor particular enmity for MoveOn.org. It is sponsoring an “I support the commander in chief petition,” which also declares: “I am also deeply concerned about the damaging efforts of radical leftist organizations like MoveOn.org who continue to use the media to distort and mislead the citizens of our nation – in hopes of undermining the confidence and credibility of our president.”^{iv}

Grassfire solicits contributions on its Web site. To those who contribute \$30 or more the group promises to rush a copy of “our top-selling book, ‘George Bush: On God And Country.’ ”

Grassfire employs Shirley & Banister Public Affairs as its public relations firm.^v That firm is headed by Craig Shirley, who was a member of the team that developed the “Willie Horton” ad in 1988. That ad blamed Gov. Michael Dukakis (D-Mass.), who was the running for president against Vice President George H.W. Bush, for a furlough program that allowed Horton to spend a weekend out of jail during which he raped a woman.^{vi}

Currently, Shirley’s firm serves as a consultant to the Republican National Committee, the National Rifle Association and the Law Enforcement Alliance of America. In 2002, Shirley served on the board of directors of the United Seniors Association.^{vii}

Grassfire failed to comply with Public Citizen’s request to view its IRS application for exempt status within the statutorily required 30-day period. Because the organization did not return telephone calls, Public Citizen contacted Shirley & Banister in hopes the firm would help obtain

ⁱ Grassfire.org Web site. Available at www.grassfire.org. Viewed on September 3, 2004.

ⁱⁱ Grassfire.org Web site. Available at www.grassfire.org. Viewed on May 21, 2004.

ⁱⁱⁱ Grassfire.org Web site. Available at www.grassfire.org. Viewed on May 21, 2004.

^{iv} Grassfire.org Web site. Available at www.grassfire.org. Viewed on May 21, 2004.

^v Max Pulsinelli, Shirley and Bannister Public Affairs account executive, e-mail to Public Citizen Senior Researcher Taylor Lincoln, May 18, 2004.

^{vi} Mark Humbert, “GOP Ad Men Ready For Cuomo,” Associated Press, Nov. 21, 1991; Steven W. Colford, “Bill vs. Bush: How Experts Would Position Each For Victory In Fall,” *Advertising Age*, May 18, 1992.

^{vii} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

the forms. The e-mail request made its way to Shirley, who copied Public Citizen in a reply to one of his staffers:

Public Citizen is an ultra-leftist, anti-conservative, anti-Bush organization. If they bother you one more time, please advise me soonest and I will have the lawyers alert the FBI and the Virginia Attorney General's office to investigate [Public Citizen Senior Researcher Taylor] Lincoln and Public Citizen for any and all laws they may have broken and to prosecute both Mr. Lincoln and Public Citizen to the fullest extent of the law.^{viii}

An official from Grassfire called the next day to arrange to send the forms to Public Citizen.

^{viii} Craig Shirley e-mail to Shirley & Banister account executive Max Pulsinelli and Public Citizen Senior Researcher Taylor Lincoln, May 18, 2004.

Law Enforcement Alliance of America

The Law Enforcement Alliance of America (LEAA), a 501(c)(4) group, is an anti-gun-control organization that receives an annual grant of about \$500,000 from the National Rifle Association.ⁱ It primarily has attempted to influence state attorney general and judicial races but also has dabbled in federal contests.

The group appeared to step up its electioneering activities in 2002, spending more than \$3 million combined in attorney general races in Kansas, Texas and Illinois.ⁱⁱ Public Citizen was unable to determine the LEAA's 2002 revenue because the group did not abide by its legal requirement to furnish its tax forms within 30 days of a written request. A complaint has been filed with the IRS. Public Citizen has obtained a partial set of the group's forms through the IRS.

The LEAA's attempts to influence political contests often have been accompanied by controversies, frequently involving alleged campaign finance irregularities.

The LEAA has figured in a Texas investigation into whether the Texas Association of Business (TAB) and Texans for a Republican Majority (TRMPAC), a 527 organization established by U.S. House Majority Leader Tom Delay, illegally influenced the outcome of the 2002 state legislative elections in Texas.ⁱⁱⁱ

John Colyandro, who was serving as both TRMPAC's executive director and as director of policy issues for attorney general candidate Greg Abbott (R), has acknowledged to investigators that he spoke with LEAA Executive Director James Fotis at least once during the fall of 2002. The LEAA spent a reported \$1.5 million on ads that disparaged Abbott's opponent as an opportunistic personal injury lawyer, while praising Abbott as a respected state Supreme Court justice.^{iv}

Colyandro said that Fotis and he did not discuss the Abbott campaign, but rather the possibility of the LEAA getting involved in some Texas legislative races. In fact, the LEAA did get involved in some legislative races by allowing its logo to be stamped on a mailer created by the TAB, which also stamped mailers with TRMPAC's logo.^v

In a Republican attorney general primary in Kansas in 2002, the LEAA came under fire for running an ad blaming one candidate for releasing a man who "murdered four people after his

ⁱ National Rifle Association 990 forms, 2000-2002.

ⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

ⁱⁱⁱ R.G. Ratcliff, "Travis D.A. Needs Ruling By Attorney General; Seeks to Avoid Disclosing Probe Details," *Houston Chronicle*, April 3, 2004; Christy Hoppe, "Ad In AG Race Under Scrutiny," *Dallas Morning News*, March 9, 2004.

^{iv} R.G. Ratcliff, "Travis D.A. Needs Ruling By Attorney General; Seeks to Avoid Disclosing Probe Details," *Houston Chronicle*, April 3, 2004; Christy Hoppe, "Ad In AG Race Under Scrutiny," *Dallas Morning News*, March 9, 2004.

^v Laylan Copelin, "Other Groups Mailed Business Lobby's Voter Ads," *Austin-American Statesman*, Feb. 24, 2003.

parole was cut short.” The suspect, however, had not been convicted. Five Kansas television stations pulled the ad. Republican Kansas Gov. Bill Graves called the ads “a shadowy political practice” and “the worst form of political speech.”^{vi}

In a 2001 Pennsylvania Supreme Court contest, a county judge ordered the LEAA to pull its ads (which praised a Republican candidate while painting the Democrat as soft on crime) because the group was trying to influence the election while avoiding campaign finance disclosure laws.^{vii} The LEAA also was forbidden from soliciting contributions in Pennsylvania because it did not file paperwork proving it was a legal non-profit, said a spokesman for the secretary of state.^{viii}

Another complaint was filed with the Illinois election board in response to LEAA’s reported \$1.3 million in expenditures in 2002 touting the Republican candidate in an attorney general contest, while criticizing the Democratic candidate. The board deadlocked 4-to-4 on that complaint and a similar complaint over alleged electioneering communications of the American Taxpayers Alliance, another 501(c)(4) group.^{ix} Investigations into the two matters are ongoing. Meanwhile, the Illinois legislature has passed a law stipulating that independent groups spending more than \$3,000 on communications mentioning state candidates’ names in the two months before elections must file disclosure reports.^x

The LEAA reported only \$43,050 in political expenses in 2000, and just and \$2,500 in 2001 – amounting to 1.6 percent and less than one-tenth of one percent, respectively, of the group’s spending in those years.^{xi}

^{vi} Chris Grenz, “Like Them or Not, Attack Ads Are Here To Stay,” *Topeka Capital-Journal*, Aug. 19, 2002.

^{vii} Thomas Fitzgerald, “Pa. Race Mirrors Trends in Nation,” *Philadelphia Inquirer*, Nov. 3, 2001.

^{viii} Peter L. DeCoursey, “Court Bars Group From Soliciting,” *Harrisburg Patriot-News*, Oct. 23, 2001.

^{ix} Bernard Schoenburg, “Election Board Delays Ruling on Garman Ads,” *State Journal-Register* (Springfield, Ill.), Nov. 5, 2002.

^x Rupert Borgsmiller, Illinois State Board of Elections Director of Campaign Disclosure, interview with Public Citizen Senior Researcher Taylor Lincoln, June 24, 2004.

^{xi} Law Enforcement Alliance of America 990 forms, 2000 and 2001.

League of Conservation Voters

The League of Conservation Voters (LCV), a 501(c)(4), was among the first groups to air advertisements affecting the 2004 presidential race, and the group appears intent on maximizing its influence this fall by taking advantage of a special legal status.

From January to August 2004, the LCV spent more than \$1 million to influence the outcomes of federal elections.ⁱ In the presidential race, the group broadcast ads praising John Kerry and criticizing President Bush. LCV also ran ads praising U.S. Senate candidate Barack Obama (D-Ill.) and criticizing state Sen. Alice Forgy Kerr (R-Ky.), who unsuccessfully ran for Congress in a February special election.ⁱⁱ

For federal election law purposes, the LCV files with the FEC as a Qualified Non-profit Corporation (also known as a “Massachusetts Citizens for Life,” or MCFL, group), a status set aside for ideological 501(c)(4) corporations that do not accept funds from labor unions or corporations.ⁱⁱⁱ Such groups are permitted to use unlimited donations from individuals to pay for “express advocacy” communications, which urge the election or defeat of candidates. They also may make “electioneering communications,” which are defined as broadcast ads that mention candidates during the 60 days preceding general elections or in the 30 days preceding primaries or conventions. Other independent groups are prohibited by BCRA from making electioneering communications unless they set up separate funds that do not receive corporate or union money.^{iv}

Qualified non-profits are required to report independent expenditures – spending specifically directed at supporting or opposing political candidates – to the FEC. But unlike other groups that may expressly advocate for candidates, qualified non-profits are not always required to disclose their contributors. Like other 501(c)(4) organizations, however, they must disclose their political expenditures to the IRS and are prohibited from devoting themselves primarily to the purpose of affecting the outcomes of elections.^v

The LCV made at least \$691,000 in independent expenditures to support Kerry or oppose Bush from January to August 2004.^{vi} That money partially funds the Environmental Victory Project (EVP), a coalition primarily funded by the LCV, which appears wholly devoted to defeating Bush. The EVP’s Web site says, “Help Defeat George W. Bush,” and lists four states that are the focus of the project – all hotly contested battleground states – Florida, New Mexico, Oregon and Wisconsin. The link from the LCV’s main page to the EVP’s page blinks: “Defeat Bush” and “Save Our Future.”^{vii}

ⁱ Independent expenditure reports filed with the Federal Election Commission, Jan. 30-Aug. 11, 2004.

ⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

ⁱⁱⁱ Liz Sidoti, “Some Groups to Run Ads Until Election Day,” Associated Press, March 22, 2004.

^{iv} Code of Federal Regulations, “Part 114, Corporate and Labor Organization Activity,” Revised as of Jan. 1, 2003.

^v Code of Federal Regulations, “Part 114, Corporate and Labor Organization Activity,” Revised as of Jan. 1, 2003.

^{vi} League of Conservation Voters, Inc., independent expenditure reports filed with the Federal Election Commission, Jan. 30, 2004-Aug. 11, 2004, and information provided by LCV to Public Citizen.

^{vii} League of Conservation Voters Web site. Available at www.lcv.org. Viewed on May 21, 2004.

The LCV is a complex organization. Aside from its flagship 501(c)(4), the group also maintains another 501(c)(4), a PAC, a 501(c)(3) and a 527 group.^{viii} The existence of numerous entities makes it difficult to determine which LCV entity is responsible for which activities, a challenge that is compounded by the LCV's practice of transferring funds from one entity to another. The LCV's 527 raised \$8.6 million and spent \$3.2 million from 2000 to August 2004. The chief recipient of funds from the LCV's 527 has been the LCV's 501(c)(4), which received \$1.8 million.^{ix}

In 2002, the LCV appeared to fund most of its broadcast activities through its PAC. The LCV's PAC spent \$1.5 million in independent expenditures in 2002,^x and scripts of the LCV's 2002 advertisements listed the PAC in their closing taglines. The 501(c)(4) also reported to the FEC making slightly more than \$275,000 in independent expenditures for behind-the-scenes tasks, such as consulting and polling.^{xi} In 2000, the 501(c)(4) reported to the FEC making at least \$1.1 million in independent expenditures.^{xii} The LCV's 501(c)(4) reported zero political activities in each year from 2000 to 2002. Those reports for 2000 and 2002 appear contradicted by the fact that the group, which identifies itself as "The Political Voice of the Environmental Movement,"^{xiii} reported substantial independent expenditures in those years.

Though the LCV primarily supports Democrats, it is not purely partisan. For example, it reported to the FEC making \$45,505 in independent expenditures to support Rep. Jim Leach (R-Iowa) in 2002.^{xiv}

^{viii} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{ix} Web site of "Silent Partners," a project of the Center for Public Integrity. Available at www.publici.org/527. Viewed on July 15, 2004.

^x Federal Election Commission Form 3X, Oct. 17, 2002, through Nov. 5, 2002. Available at FEC Web Site, Viewed on June 29, 2004.

^{xi} League of Conservation Voters Inc., independent expenditure reports filed with the Federal Election Commission, June 1, 2002-Oct. 27, 2002.

^{xii} League of Conservation Voters Inc., independent expenditure reports filed with the Federal Election Commission, Sept. 30, 2000-Nov. 27, 2000.

^{xiii} League of Conservation Voters Web site. Available at www.lcv.org. Viewed on Aug. 13, 2004.

^{xiv} Mark H. Rodeffer, "LCV Goes To Bat For Leach," *National Journal*, Sept. 26, 2002; League of Conservation Voters reports of independent expenditures to the FEC, 2002.

MoveOn.org

MoveOn.org, a group created during the Clinton impeachment battle, soared to prominence as a voice of opposition to the Iraq War. Since then, the group has evolved into a cyber-nexus for liberal activists. It claims 2.9 million members, a status that MoveOn.org affords to anybody who volunteers time, signs a petition or donates money.ⁱ

Like many electorally active liberal groups, MoveOn.org consists of several entities, a 501(c)(4) group, a 527 arm and a federally regulated PAC. Each has broadcast commercials criticizing President Bush.ⁱⁱ Some of those financed by MoveOn.org's 501(c)(4) entity may warrant categorization as political expenditures under IRS criteria.

The IRS defines political expenditures as those "intended to influence the selection, nomination, election, or appointment of anyone to a federal, state, or local public office."ⁱⁱⁱ The agency has published an 11-point "facts and circumstances" test intended to evaluate whether expenditures mentioning candidates during campaign seasons qualify as "political." Criticism of a candidate on a topic that is prominent in a campaign points in favor of political categorization. If the communication solely mentions the candidate as a public official in connection with a pending event in which he or she is in position to act (such as an upcoming vote in Congress), that points against political categorization.^{iv}

A March 2004 commercial financed by MoveOn.org's 501(c)(4) entity criticized President Bush for choosing to go to war in Iraq. If the president had "told the truth" in the lead-up to the war in Iraq, the narrator asks, "would we have gone to war, spending \$125 billion and losing more than 500 American lives"? The commercial closes by calling on Congress to censure Bush.^v That call to action arguably points against political categorization of the ad, but the commercial may have been intended to harm Bush's re-election prospects, given that it was aired during an election year and there was no plausible movement in Congress to censure the president.

A section of MoveOn.org's Web site supplements the evidence that electoral considerations lay behind the ad. In its continued "censure" campaign, MoveOn.org's Web site criticizes a Bush administration plan to conduct an inquiry into intelligence failures before the Iraq War. Not only would an inquiry allow Bush to deflect blame, MoveOn.org said, but it would also "delay any political damage until 2005, after the upcoming election."^{vi}

As with many other organizations included in the *New Stealth PACs* study, Public Citizen shared its findings with MoveOn.org. The group disagreed with Public Citizen's conclusion about the "censure" ad discussed above. That ad, and another ad calling for Bush to fire Defense Secretary Donald Rumsfeld, did not fall within IRS guidelines for "political" expenditures because they

ⁱ Tara McKelvey, "Onward and Forward," *American Prospect*, Aug. 1, 2004.

ⁱⁱ MoveOn.org Web site. Available at www.moveon.org. Viewed on July 23, 2004.

ⁱⁱⁱ IRS Form 990 Instructions, Line 81, 2003. Available at www.irs.gov.

^{iv} Internal Revenue Bulletin: 2004-4, Internal Revenue Service, Jan. 26, 2004.

^v Meg Kinnard, "MoveOn.org Repeats Plea to Censure Bush," *National Journal*, March 19, 2004.

^{vi} MoveOn.org Web site. Available at www.moveon.org. Viewed on Aug. 16, 2004.

were “publicized long before the November elections and they pertained to policy actions that the president or Congress could have taken at that time,” wrote the group’s executive director, Peter Schurman, in an e-mail.^{vii}

Schurman said in his e-mail that a third ad financed by MoveOn.org’s 501(c)(4), which criticized Bush for his focus on the proposed gay marriage amendment, could “be fairly described as partisan” because “the ad calls Bush out on cynically using this wedge issue to try to distract Americans from real issues like Iraq and the economy.”^{viii}

MoveOn.org’s 501(c)(4) posted revenue of \$2.3 million for fiscal year 2002, which concluded in mid-2003. The group reported \$139,570 in political expenditures, making it one of only four groups in the *New Stealth PACs* database to report any political expenditures that year.^{ix}

^{vii} Peter Schurman, MoveOn Executive Director, e-mail to Congress Watch Director Frank Clemente, Aug. 2, 2004.

^{viii} Peter Schurman, MoveOn Executive Director, e-mail to Congress Watch Director Frank Clemente, Aug. 2, 2004.

^{ix} MoveOn.org 990 form, 2002.

NAACP National Voter Fund

The NAACP's National Voter Fund (NVF), a 501(c)(4), was established by the NAACP in 2000 to engage in electioneering activity. The group reported to the IRS that it received a contribution of almost \$16.6 million (98.6 percent of its \$17.1 million in 2000 revenue) from a single, anonymous donor.ⁱ

NVF's best-known electioneering communication in 2000 was an advertisement in which the wife of James Byrd, a black Texas man who was tortured and dragged to death, criticized then-Texas Gov. George W. Bush for refusing to sign hate crimes legislation.ⁱⁱ

Americans for Equality (AFE), a 527 organization created by NVF, also ran electioneering ads in 2000.ⁱⁱⁱ NVF also focused in 2000 on increasing voter turnout. "We particularly focused on infrequent voters. We built up a voter file of more than 3.8 million African-American voters, and we concentrated on getting them to the polls," said Heather Booth, who was executive director of the NVF in 2000.^{iv}

NVF concentrated on direct mail, telemarketing and other retail politics in 2002. The group reported sending direct mail to almost 400,000 households and contacting about 300,000 households via recorded telephone calls.^v

NVF is one of the few 501(c) organizations that reported spending substantial sums on political activities, which the IRS defines as expenditures intended to influence the outcomes of elections. The NVF reported about \$7.8 million in political expenditures in 2000 out of total expenditures of \$16.6 million.^{vi} In 2002, however, the group reported zero political expenditures.

ⁱ NAACP National Voter Fund 990 form, 2000.

ⁱⁱ Campaign Media Analysis Group (CMAG) reports, 2000.

ⁱⁱⁱ Tyler Whitley and Paul Bradley, "NAACP Ads Attack Allen; Joint Radio Venture Is With Sierra Club," *Richmond Times-Dispatch*, Sept. 23, 2000; John Solomon, "Tax Exempt Politics," Associated Press, Nov. 3, 2000.

^{iv} Robert Dreyfuss, "Till Earth and Heaven Ring," *The Nation*, July 23, 2001.

^v NAACP National Voter Fund Web site. Available at www.naacpnvf.org. Viewed on June 29, 2004.

^{vi} NAACP National Voter Fund 990 form, 2000.

NARAL Pro-Choice America Inc.

In 2002, NARAL Pro-Choice America Inc., a 501(c)(4), financed television ads and direct mail aimed at influencing several of the most hotly contested U.S. Senate races.^{vii}

In New Hampshire, NARAL spent \$154,000 to run ads during the Senate race between former Democratic Gov. Jeanne Shaheen and Republican Rep. John Sununu Jr.^{viii} NARAL's TV ads stated: "John Sununu supports a ban on abortion," but "Jeanne Shaheen is pro-choice. She'll defend our freedom." It concluded: "Vote pro-choice. Vote Jeanne Shaheen for Senate."^{ix}

Similar TV ads, specifically criticizing Sen. Wayne Allard (R-Colo.), were run during his re-election race against Democrat Tom Strickland.^x NARAL also sponsored a direct mail campaign in North Carolina warning voters that if Elizabeth Dole were elected, the Senate would be controlled by Republicans who would install a pro-life Supreme Court.^{xi} Voters in Missouri, Connecticut, New Hampshire, Minnesota and New Mexico also received direct mail from NARAL mentioning candidates in 2002.^{xii}

For federal election law purposes, NARAL Pro-Choice America Inc. files with the FEC as a Qualified Non-profit Corporation (also known as a "Massachusetts Citizens for Life," or MCFL, group), a status set aside for ideological 501(c)(4) corporations that do not accept funds from labor unions or corporations.^{xiii} Such groups are permitted to use unlimited donations from individuals to pay for "express advocacy" communications, which urge the election or defeat of candidates. They also may make "electioneering communications," which are defined as broadcast ads that mention candidates during the 60 days preceding general elections or in the 30 days preceding primaries or conventions. Other independent groups are prohibited by the BCRA from making electioneering communications unless they set up separate funds that do not receive corporate or union money.^{xiv}

Qualified Non-profit Corporations are required to report independent expenditures – spending specifically directed at supporting or opposing political candidates – to the FEC. But unlike other groups that may expressly advocate for candidates, qualified non-profits are not always required to disclose their contributors. Like other 501(c)(4) organizations, however, they must disclose

^{vii} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{viii} Mark Wrighton, "The New Hampshire 'Soft Money Orgy' of 2002," as quoted in *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections*, edited by David E. Magelby and J. Quin Monson, 2003.

^{ix} Wisconsin Advertising Project, 2002.

^x Wisconsin Advertising Project, 2002.

^{xi} Amy Gardner, "Campaigns Zero In on Women," *Raleigh News & Observer*, Nov. 2, 2002; Cory Reiss, "N.C. Race may Hinge on Choices of Women," *The Morning Star*, Oct. 28, 2002.

^{xii} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{xiii} Liz Sidoti, "Some Groups to Run Ads Until Election Day," Associated Press, March 22, 2004.

^{xiv} Code of Federal Regulations, Section 114, "Corporate and Labor Organization Activity," Revised Jan. 1, 2003.

their political expenditures to the IRS, and they are prohibited from devoting themselves primarily to the purpose of affecting the outcomes of elections.^{xv}

Determining whether NARAL's communications were financed through its federally regulated PAC or its 501(c)(4) arm is challenging, and the evidence in some cases is ambiguous. The scripts for the New Hampshire and Colorado ads carried taglines that said the ads were paid for by NARAL, not by its PAC.^{xvi} But the PAC reported more than \$1.2 million in independent expenditures in 2002, suggesting that the PAC likely financed at least some of the ads.

NARAL's 501(c)(4), however, also reported \$621,470 in independent expenditures to the FEC in 2002. The expenditures were aimed at supporting 10 Democratic candidates for the U.S. Senate.^{xvii} In 2000, NARAL reported \$6.1 million in independent expenditures.^{xviii} From 2000 to 2002, NARAL reported to the IRS that it made zero political expenditures, effectively claiming that it did not attempt to influence the outcomes of elections. That claim appears contradicted for 2000 and 2002, given NARAL's reports of substantial independent expenditures to the FEC.^{xix}

NARAL plans to saturate the airwaves in the 2004 election. "We can be a very powerful voice right up to Election Day, with a message that we know turns out core Democrats and appeals to swing voters," NARAL Pro-Choice America Communications Director David Seldin told *Roll Call* in February 2004.^{xx}

NARAL also has been fundraising via telemarketing calls. A recipient of a fundraising call in May 2004 was told that the potential harm to pro-choice rights from George W. Bush's re-election would be tremendous, and that NARAL needed money to continue running anti-Bush advertisements. The recipient of the call was also told that donations would go to NARAL's 501(c)(4) arm.^{xxi}

NARAL is a member of America Votes, an umbrella 527 group that is coordinating efforts of other Democratic-leaning 527 groups. Cecile Richards, who was listed as a NARAL director in the organization's 2002 filing with the IRS, is the president of America Votes.^{xxii} She is also a founding partner of another pro-Democratic, America Coming Together,^{xxiii} which boasts a goal of sending President Bush "a one-way ticket back to Crawford, Texas."^{xxiv}

^{xv} Code of Federal Regulations, Section 114, "Corporate and Labor Organization Activity," Revised Jan. 1, 2003.

^{xvi} Wisconsin Advertising Project, 2002.

^{xvii} NARAL independent expenditure reports filed with the Federal Election Commission, Aug. 8, 2002-Nov. 8, 2002.

^{xviii} NARAL independent expenditure reports filed with the Federal Election Commission, Oct. 14-Nov. 27, 2000.

^{xix} IRS Form 990 instructions, Line 81, 2003. Available at www.irs.gov.

^{xx} Stuart Rothenberg, "Democratic Groups Could Play Crucial TV Role in '04 Races," *Roll Call*, Feb. 2, 2004.

^{xxi} NARAL Pro-Choice America fundraising telephone call received by Public Citizen Research Assistant Andrea Parsons, May 2004.

^{xxii} America Votes Web site. Available at www.AmericaVotes.org. Viewed on May 27, 2004.

^{xxiii} America Coming Together Web site. Available at www.actforvictory.org. Viewed on May 10, 2004.

^{xxiv} Cover of America Coming Together direct mail piece, 2004.

National Education Association

The National Education Association (NEA), a 501(c)(5) union consisting of 2.7 million members who work in public education, is one of the few 501(c) groups that is known to have come under investigation by the IRS for allegedly failing to report its political expenditures accurately. The NEA has reported to the IRS that it had zero political expenditures from its fiscal year 1999 through its fiscal year 2002, the last year for which its tax forms are available.ⁱ

The IRS investigation was prompted by a 2000 complaint by the Landmark Legal Foundation, a Virginia-based group dedicated to combating “powerful interest groups and unions.”ⁱⁱ Landmark alleged that NEA publications “reveal the overwhelming importance the NEA attributes to political activity as a core purpose of the union’s existence.” For example, Landmark’s complaint said, “The NEA has published a series of ‘how to’ handbooks designed to educate its affiliates and members in the art of politics.” In one handbook, Landmark said, the NEA advised local affiliates to consider such practices as naming political action committee members to the local association board and combining PAC fundraising with the association’s membership drive.ⁱⁱⁱ

Public Citizen faxed the NEA a chart showing nine congressional races in which the union was reported to have sent out direct mail or telemarketing messages in 2002. NEA Assistant Treasurer Fred Suman said that each of the mailings and telephone calls was directed only to NEA members.^{iv} Federal regulations are ambiguous as to whether 501(c) organizations are required to treat communications with members as political expenditures. However, the IRS said in an e-mail to Public Citizen that the groups have the option of whether to declare the costs of political communications with members as “political” expenditures, pending a revision of the regulations.^v

The NEA has an affiliated federally regulated PAC and a 527 committee.^{vi}

ⁱ National Education Association 990 forms, 1999-2002; the NEA reported one payment of \$17,063 that the organization said was inadvertently paid out of general funds, and was subsequently refunded by its Section 527 entity.

ⁱⁱ Landmark Legal Foundation Web Site. Available at www.landmarklegal.org. Viewed on June 29, 2004.

ⁱⁱⁱ Landmark Legal Foundation, “2000 Complaint v. NEA,” undated.

^{iv} National Education Association Assistant Treasurer Fred Suman conversation with Public Citizen Senior Researcher Taylor Lincoln, May 17, 2004.

^v IRS Spokeswoman Nancy Mathis e-mail to Public Citizen Senior Researcher, Aug. 5, 2004.

^{vi} Federal Election Commission Form 3X, Oct. 17, 2002, through Nov. 5, 2002. Available at FEC Web site. Viewed on June 29, 2004; IRS Web Site, Political Organizations Section. Available at www.irs.gov/charities/political/index.html. Viewed on June 24, 2004.

National Pro-Life Alliance

Though the National Pro-Life Alliance (NPLA), a 501(c)(4), has told the IRS it made zero political expenditures in 2002, it reported differently to its members.ⁱ

The organization's winter 2003 newsletter touted the success of its ad campaigns from the previous fall, in which it ran television commercials criticizing at least six U.S. Senate candidates for supporting late-term abortions.ⁱⁱ

"Jean Carnahan (D-Mo.) and Max Cleland (D-Ga.) were targets of National Pro-Life Alliance television ads run just before the elections," a cutline under their photos read. "Both are supporters of the procedure and both fell to defeat against their pro-life opponents."ⁱⁱⁱ

Though an anonymous spokesman from the NPLA told Public Citizen in an e-mail, "I'm fairly certain that the ads were paid for with PAC money,"^{iv} the ads were in fact almost certainly financed with soft money.

The NPLA-PAC reported to the FEC that 100 percent of its 2002 spending came in the form of contributions to candidates, with none for independent expenditure campaigns, which would have covered television commercials and other campaign-related activity by the PAC.^v In addition, the NPLA newsletter says the ads were paid for by the organization's members and distinguishes between the work of its PAC and the group itself: "Not only did the NPLA PAC provide financial support to [Georgia Senate candidate Saxby] Chambliss," the newsletter said. "The Alliance also ran ads attacking Max Cleland for his vote to continue partial-birth abortion."^{vi}

Sen. John McCain (R-Ariz.) singled out the NPLA's electioneering activities in a September 2002 news release praising the prospective impact of the BCRA, which had yet to take effect. He noted that an ad run by the NPLA against former Sen. Paul Wellstone (D-Minn.), paid for with soft money, did "not even include a visual disclaimer identifying who paid for it."^{vii} BCRA would require the group to disclose its funders and details about its expenditures if it ran ads in the lead-up to an election, McCain said.

Among other candidates the group targeted was Democrat Tom Strickland, who was challenging Republican Sen. Wayne Allard to represent Colorado in the U.S. Senate.^{viii} "Tom Strickland

ⁱ National Pro-Life Alliance 990 form, 2002.

ⁱⁱ "Lifeline," National Pro-Life Alliance newsletter, Winter 2003.

ⁱⁱⁱ "Lifeline," National Pro-Life Alliance newsletter, Winter 2003.

^{iv} National Pro-Life Alliance Member Services, e-mail to Public Citizen Senior Researcher Taylor Lincoln, April 12, 2004.

^v FEC Form 3X, Oct. 17, 2002, through Nov. 5, 2002. Available at FEC Web Site. Viewed on June 29, 2004.

^{vi} "Lifeline," National Pro-Life Alliance newsletter, Winter 2003.

^{vii} "Campaign Reform Sponsors Condemn Record Breaking Soft Money Spending," Press release on behalf of Sen. John McCain (R.-Ariz.) and Rep. Christopher Shays (R-Conn.), Sept. 26, 2002.

^{viii} "Run, Tom, Run," *Rocky Mountain News*, Nov. 1, 2002.

consistently helped kill pro-life legislation when he was Colorado's governor," the direct mail said.^{ix}

One problem: Strickland was never governor of Colorado.^x

^{ix} "Run, Tom, Run," *Rocky Mountain News*, Nov. 1, 2002.

^x *The American Encyclopedia*, "List of Governors of Colorado." Available at <http://united-states.asinah.net>. Viewed on June 29, 2004.

National Rifle Association

The National Rifle Association (NRA), a 501(c)(4), is one of the most active opponents of BCRA and has a history of spending soft money to influence elections.

Determining which of the group's advertisements were funded by its core organization and which by its federally regulated PAC is difficult, however, because the NRA has been shown to pay for its ad campaigns with money from both entities.

In 2000, for instance, the group ran separate commercials narrated by former NRA President Charlton Heston that contained four paragraphs of verbatim text. The last of the four paragraphs ended with a warning that "Al Gore's Supreme Court" would bring "the end of your Second Amendment rights." One version of the ad, paid for by the NRA's PAC, ended by asking viewers to vote for George W. Bush for president; the other concluded simply, "paid for by the National Rifle Association," suggesting that it was financed by the 501(c)(4).ⁱ

The "vote for" admonition constituted "express advocacy" in the parlance of the FEC; therefore, the ad unequivocally needed to be financed with hard money. While the other commercial was outside the FEC's purview because it lacked express advocacy language, it should nonetheless have been included in the NRA's annual report of political expenditures to the IRS, which defines electioneering activities more broadly than does the FEC.ⁱⁱ

But there is reason to question whether the NRA provided the IRS with an accurate report of its expenditures intended to influence elections in 2000. While the NRA reported to the IRS that it had \$230,000 in such expenditures in 2000,ⁱⁱⁱ Executive Vice President Wayne LaPierre said in a fundraising letter that the group "spent what it took to defeat Al Gore, which amounted to millions more than we had on hand."^{iv}

The NRA appeared to confine its spending on political advertisements in 2002 to independent expenditure campaigns paid for by its PAC. LaPierre said the group opted to send Heston on a barnstorming tour rather than buying commercials. "It's moving real people to the polling booth," LaPierre said.^v The NRA reported zero political expenditures in 2002.

The NRA was a plaintiff in the lawsuit challenging the BCRA. After the Supreme Court upheld the law, the NRA announced it had started an Internet radio station and subsequently, commenced a daily three-hour news and talk show on a satellite radio service.^{vi} The NRA's newscasts are intended to fall within a provision of BCRA that exempts the news media from the

ⁱ *Mitch McConnell v. Federal Election Commission*, "Brief of Amicus Curiae The League of Women Voters of the United States in Support of Appellees."

ⁱⁱ IRS Form 990 instructions, Line 81, 2003. Available at www.irs.gov.

ⁱⁱⁱ National Rifle Association 990 form, 2000.

^{iv} *Mitch McConnell v. Federal Election Commission*, "Brief of Amicus Curiae The League of Women Voters of the United States in Support of Appellees."

^v Sharon Theimer, "Special Interests Spend Millions To Influence Vote; Groups Are Focusing On 'Moving Real People To the Polling Booth,'" *St. Louis Post-Dispatch*, Oct. 27, 2002.

^{vi} "Profile: Launch of NRA News, An Online Newscast," National Public Radio, April 16, 2004.

prohibition on corporate money to broadcast “electioneering communications” that mention candidates’ names in the 60 days preceding a general election or in the 30 days before a primary or convention.

“I vowed from the very start after the McCain-Feingold bill passed, we would not be silenced,” LaPierre told the *Houston Chronicle*. “It’s an act of defiance – I readily admit that. But it’s an act of defiance under the law.”^{vii}

^{vii} Kim Cobb, “NRA Challenges Soft Money Law with Radio Show,” *Houston Chronicle*, June 18, 2004.

National Right to Work Committee

The National Right to Work Committee (NRWC), a 501(c)(4) that works toward laws that prohibit “compulsory unionism,” has used advertisements both to help candidates it supported and to urge incumbents to pursue the organization’s objectives.

In 2002, the NRWC ran ads attacking six Republican incumbents for refusing to introduce right-to-work legislation.ⁱ Among the targeted lawmakers was Rep. John Cooksey (R-La.), who the group said had pledged to co-author right-to-work legislation. Cooksey was campaigning in the state’s U.S. Senate primary at the time.

“I believe that before John Cooksey asks the people of Louisiana to choose him as their next Senator, he ought to honor the promises he made as a Congressman,” John Tate, an NRWC vice president, said in a news release announcing the ad.ⁱⁱ

The group also ran attack ads near Election Day against incumbent Sen. Mary Landrieu (D-La.) and Mark Pryor, a Democratic challenger to a U.S. Senate incumbent in Arkansas.ⁱⁱⁱ

The NRWC has reported to the IRS in 2000, 2001 and 2002 that it had zero expenditures for political activities.^{iv} In effect, the group claimed that none of its communications mentioning the names of candidates were intended to influence the outcomes of elections.^v

Given that NRWC’s ads were typically broadcast close to Election Day, that claim can be questioned. In some cases, the group attacked candidates who held no public office when the ads ran, including ads criticizing U.S. Senate candidates Ben Nelson (D-Neb.) and Bill Nelson (D-Fla.) in 2000.^{vi} Those ads were part of a \$1 million ad campaign by the NRWC.^{vii}

The NRWC says it is a coalition of 2.2 million Americans. Each year from 2000 to 2002, the group has received 25 percent to 40 percent of its money from fewer than 175 people or organizations, each of whom gave more than \$5,000, according to its reports to the IRS.^{viii}

ⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

ⁱⁱ “Right To Work Officer: TV Ad Will Urge John Cooksey To Follow Through On Campaign Promises,” National Right To Work press release, Aug. 1, 2002.

ⁱⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{iv} National Right To Work Committee 990 forms, 2000-2002.

^v IRS Form 990 instructions, Line 81, 2003. Available at www.irs.gov.

^{vi} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{vii} Julie Samuels, “Anti-Union Group Hits Dem Senate Hopefuls,” *National Journal*, Oct. 17, 2000.

^{viii} National Right To Work Committee 990 forms, 2000-2002.

Planned Parenthood Action Fund

Planned Parenthood Action Fund (PPAF), a 501(c)(4), is the “political arm” of the Planned Parenthood Federation of America. It combined with other Planned Parenthood affiliates to spend several million dollars during the last five weeks of the 2000 general election campaign to broadcast two ads criticizing George W. Bush’s record on abortion rights.ⁱ

The ads, which were broadcast in seven battleground states, questioned Bush’s record on abortion rights in Texas and predicted that Bush would nominate anti-abortion judges to the Supreme Court if he were elected.

In the 2002 election cycle, PPAF funded direct mail and telemarketing campaigns supporting pro-choice candidates in several closely contested U.S. House and Senate races. The group distributed more than 200,000 pieces of literature and made 190,000 phone calls supporting Sen. Paul Wellstone (D-Minn.) against Republican challenger Norm Coleman. The group subsequently distributed 200,000 e-mails supporting Walter Mondale, who became the Democratic nominee after Wellstone died in a plane crash.ⁱⁱ

Because Planned Parenthood’s overall structure includes a 501(c)(4) entity, a 501(c)(3) entity, a federally regulated PAC and a 527 organization, it is difficult to determine which pots of money paid for which ads.ⁱⁱⁱ

Susanne Martinez, Planned Parenthood’s vice president for public policy, wrote in a letter to *Roll Call* that Planned Parenthood’s 501(c)(4) entity, its PAC and its 527 collectively spent more than \$9 million during the 2000 elections. But she did not offer a breakdown of spending by each affiliate.^{iv}

The flush coffers of Planned Parenthood’s collective entities in 2000 resulted in large part from \$6.2 million in donations to Planned Parenthood’s 527 group from Pro-Choice Vote, a 527 group funded by actress Jane Fonda.^v

PPAF announced an alliance in March 2004 with Voters for Choice Action Fund, a 527 organization headed by feminist Gloria Steinem.^{vi} Planned Parenthood President Gloria Feldt announced in April 2004 that PPAF had endorsed Sen. John Kerry for president.^{vii}

ⁱ Campaign Media Analysis Group (CMAG) reports, 2000.

ⁱⁱ William H. Flanigan, Joanne M. Miller, Jennifer L. Williams and Nancy H. Zingale, “The Minnesota U.S. Senate Race and the Second Congressional District Race,” in *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections*, edited by David E. Magelby and J. Quin Monson, 2003.

ⁱⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{iv} Susanne Martinez, “‘Planning to Spend Big’ letter to the editor, *Roll Call*, May 15, 2003.

^v Web site of “Silent Partners,” a project of the Center for Public Integrity. Available at www.publici.org/527. Viewed on June 29, 2004.

^{vi} Planned Parenthood Action Fund Web site. Available at www.ppaction.org. Viewed on May 27, 2004.

^{vii} Planned Parenthood Action Fund Web site. Available at www.ppaction.org. Viewed on May 27, 2004.

Planned Parenthood also has announced plans to file with the FEC as a Qualified Non-profit Corporation (also known as a “Massachusetts Citizens for Life,” or MCFL, group), a status set aside for ideological 501(c)(4) corporations that do not accept funds from labor unions or corporations.^{viii} Such groups are permitted to use unlimited donations from individuals to pay for “express advocacy” communications, which urge the election or defeat of candidates. They also may make “electioneering communications,” which are defined as broadcast ads that mention candidates during the 60 days preceding general elections or in the 30 days preceding primaries or conventions. Other independent groups are prohibited by BCRA from making electioneering communications unless they set up separate funds that do not receive corporate or union money.^{ix}

Qualified Non-profit Corporations are required to report independent expenditures – spending specifically directed at supporting or opposing political candidates – to the FEC. But unlike other groups that may expressly advocate for candidates, qualified non-profits are not always required to disclose their contributors. Like other 501(c)(4) organizations, they must disclose their political expenditures to the IRS and are prohibited from devoting themselves primarily to the purpose of affecting the outcomes of elections.^x

Qualified Non-profit Corporation status “is just another tool in our arsenal, which I think makes our case even more compelling to those donors who want to help us,” PPAF political director David Williams told the Associated Press in March 2004.^{xi}

Planned Parenthood was one of only a handful of groups included in the *New Stealth PACs* database that has reported substantial political expenditures since 2000. The group reported \$1.3 million in political expenditures in 2000 and nearly \$500,000 in 2002.^{xii}

^{viii} Liz Sidoti, “Some Groups to Run Ads Until Election Day,” Associated Press, March 22, 2004.

^{ix} Code of Federal Regulations, Section 114, “Corporate and Labor Organization Activity,” Revised as of Jan. 1, 2003.

^x Code of Federal Regulations, Section 114, “Corporate and Labor Organization Activity,” Revised as of Jan. 1, 2003.

^{xi} Liz Sidoti, “Some Groups to Run Ads Until Election Day,” Associated Press, March 22, 2004.

^{xii} IRS Form 990 instructions, Line 81, 2003. Available at www.irs.gov.

Progress for America

The *National Journal* reported in late 2003 that Progress for America (PFA) was attempting to raise \$40 million to \$60 million to spend on “issue advocacy, voter mobilization, and grassroots efforts to boost Bush and GOP candidates.”ⁱ More recently, in the aftermath of the May FEC decision not to regulate electioneering communications of 527 and 501(c) groups, PFA president Brian McCabe pledged that PFA “will become even more active than ever.”ⁱⁱ

The group, however, has subsequently created a 527 entity, the Progress for America Voter Fund, and may have ceased funding political activities with 501(c) money.ⁱⁱⁱ

PFA’s staff is loaded with Republican heavyweights, and the messages it has disseminated have all been pro-GOP.^{iv} PFA’s Web site previously described the group’s purpose as “supporting Pres. George Walker Bush’s agenda for America.”^v

Its founder, Tony Feather, was political director of President Bush’s 2000 campaign and runs a GOP-aligned political consulting firm, Feather Larson & Synhorst, which provides direct mail and grassroots organizing work for Republican clients, including Bush’s 2004 campaign.^{vi}

Other current and former PFA principals and consultants include lawyer Benjamin Ginsberg, counsel to Bush’s 2000 and 2004 campaigns and previously counsel to the RNC and other national Republican fundraising committees; Mark McKinnon, who produced ads for PFA advocating for Bush’s tax cut plan in 2001 and is ad director for Bush’s re-election campaign; and Chris LaCivita, former political director for the National Republican Senatorial Committee, who serves as executive director of PFA. Feather has left PFA, but LaCivita continues to work out of the offices of Feather’s consulting firm.^{vii} The Web site of Feather Larson & Synhorst listed PFA under the heading of “National Republican Organizations” that are clients of the firm.^{viii}

ⁱ Peter H. Stone, “Inside Two Soft Money Havens,” *National Journal*, Dec. 20, 2003.

ⁱⁱ Thomas B. Edsall, “In Boost for Democrats, FEC Rejects Proposed Limits on Small Donors,” *Washington Post*, May 14, 2004.

ⁱⁱⁱ Progress for America Form 8871, Political Organization Notice of Section 527 Status, July 2003.

^{iv} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^v Nicholas Confessore, “Bush’s Secret Stash,” *Washington Monthly*, May 2004.

^{vi} Thomas B. Edsall, “GOP Creating Own ‘527’ Groups; Unregulated Funds Can Be Raised,” *Washington Post*, June 30, 2004.

^{vii} Thomas B. Edsall, “GOP Creating Own ‘527’ Groups; Unregulated Funds Can Be Raised,” *Washington Post*, June 30, 2004; Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff. Public Citizen was told that LaCivita worked at Feather Larson & Synhorst. In an attempt to reach him, Public Citizen called Feather Larson & Synhorst’s office and was transferred to LaCivita’s voice mail.

^{viii} Feather Larson & Synhorst Web site. Available at www.fl-sdc.com. Viewed on May 21, 2004.

An October 2003 party thrown by PFA, at which its fundraising plans were discussed, drew such prominent Republicans as Ken Mehlman, chairman of President Bush's 2004 re-election campaign; Ed Gillespie, chairman of the Republican National Committee; and Grover Norquist, head of Americans for Tax Reform.^{ix}

PFA appears to have been formed shortly after President Bush's inauguration. In April 2001, the group ran an ad campaign that promoted Bush's plan to cut taxes.^x In June 2001, the group ran a polling operation that was designed to create the appearance of grassroots support for Bush's energy plan. After PFA conducted polls over the telephone, the group sent respondents ready-to-sign letters saying that they wanted no price controls or new regulations imposed on electric power companies. The letters were addressed to members of Congress and printed on stationery customized to the respondent.^{xi}

In 2003, PFA reportedly spent \$500,000 broadcasting two commercials that attacked a Democratic candidate for lieutenant governor in Mississippi.^{xii}

Prior to forming a 527 entity, PFA consisted of at least two organizations with common officers and directors. The first was incorporated as a 501(c)(4), a social welfare organization. The second, which reported to the IRS that it began operations in late 2002 but had no activities that year or the next, was incorporated as a 501(c)(6), a business league association.^{xiii}

^{ix} Peter H. Stone, "Inside Two Soft Money Havens," *National Journal*, Dec. 20, 2003.

^x Julie Samuels, "Group Touts Bush Tax Plan," *National Journal*, April 2, 2001.

^{xi} "Firm Polling Montanans about Deregulation, Sending Letters to Sign," Associated Press, June 24, 2001.

^{xii} Chris Cillizza, "GOP Group Joins Soft-Money Fray," *Roll Call*, Nov. 24, 2003.

^{xiii} Progress for America 501(c)(4) and Progress for America 501(c)(6) 990 forms, 2002.

Seniors Coalition

The Seniors Coalition, a 501(c)(4), is one of three purported senior citizen advocacy organizations, along with United Seniors Association and 60 Plus Association, formed with the help of conservative direct mail pioneer Richard Viguerie and at least partially funded by the pharmaceutical industry.ⁱ

Despite its claim of non-partisanship, the Seniors Coalition disseminated electioneering messages in at least 11 political contests in 2002, all in support of the Republican candidate.ⁱⁱ

Both in the content of its communications and in its choices of political contests in which to intervene, the Seniors Coalition appeared to coordinate in 2002 with two other non-profits, 60 Plus and America 21, an evangelical group based in Tennessee. The three groups, for instance, each sent direct mail pieces praising 7th District Colorado Republican congressional candidate Bob Beauprez. The direct mail pieces were similar in appearance and content, and each incorrectly spelled the candidate's name as "Beuprez."ⁱⁱⁱ The Seniors Coalition's mailing said: "Bob Beuprez: Leadership on Prescription Drug Coverage for America's Seniors."^{iv}

The Seniors Coalition sent out similar direct mail pieces praising Rep. Chip Pickering (R-Miss.), Rep. Heather Wilson (R-N.M.), former Rep. Jim Talent, a Republican seeking to represent Missouri in the U.S. Senate, and Adam Taff, a Republican who was challenging incumbent Rep. Tom Moore (D-Kansas).^v The group also ran television ads that accused Moore of voting "to raid the Social Security lockbox 13 times," and told voters to "tell him to stop playing around and get serious about Social Security."^{vi}

Despite distributing direct mail and running television ads close to Election Day, the Seniors Coalition reported in its IRS forms that it had zero spending in 2002 for "political expenditures,"^{vii} which the IRS defines as those intended to influence the selection, nomination, election, or appointment of anyone to a federal, state, or local public office.^{viii} In effect, the group claimed that none of its ads or direct mail messages were intended to affect the outcomes of elections. That claim is particularly dubious in the cases of communications praising Talent, Taff and Beauprez for endorsing a Medicare prescription drug bill in the U.S. House. None of the

ⁱ Bill Hogan, "Pulling Strings From Afar," *AARP Bulletin*, February 2003.

ⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

ⁱⁱⁱ Daniel Smith, "Distorted by Outside Money: National Parties and the Race for Colorado's Seventh Congressional District," as quoted in *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections*, edited by David E. Magelby and J. Quin Monson, 2003.

^{iv} The Seniors Coalition 2002 direct mail piece collected by Daniel Smith, political science professor, University of Florida.

^v Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{vi} Wisconsin Advertising Project, 2002.

^{vii} The Seniors Coalition 990 form, 2002.

^{viii} IRS Form 990 Instructions, Line 81, 2003. Available at www.irs.gov.

three was in Congress at the time and, thus, none was in a position to vote on the bill. The group's spending, meanwhile, has risen and fallen in sync with election years in 2000, 2001 and 2002.^{ix}

Issues of concern to the pharmaceutical industry are prominent in the Seniors Coalition's electioneering communications. The front page of the Seniors Coalition's "Beuprez" mailing contained a highlighted sidebar that claimed, "Bob Beuprez [*sic*] supports the House-passed Prescription Drug Plan" and then enumerated facets of the bill in a favorable light.^x PhRMA, the trade association of the brand-name prescription drug industry, gave the Seniors Coalition nearly \$2.1 million in 2000, *AARP Bulletin* reported.^{xi} The Seniors Coalition reported receiving nearly \$6 million from a single person or organization in 2002.^{xii}

Dan Alexander, who played a role in founding the Seniors Coalition, served four years in prison in the 1980s for extorting kickbacks for school construction while he served on a school board in Alabama.^{xiii} Much of the group's staff resigned in 1996, after the Virginia Supreme Court issued a ruling that placed individuals close to Alexander in control of the group.^{xiv}

^{ix} The Seniors Coalition 990 forms, 2000-2002.

^x The Seniors Coalition 2002 direct mail piece collected by Daniel Smith, political science professor, University of Florida.

^{xi} Bill Hogan, "Pulling Strings From Afar," *AARP Bulletin*, February 2003.

^{xii} The Seniors Coalition 990 form, 2002.

^{xiii} Ronald G. Shafer, "A Special Weekly Report From The Wall Street Journal's Capital Bureau," *Wall Street Journal*, Feb. 16, 1996.

^{xiv} Marilyn Werber Serafina, "A Ruckus at the Seniors Coalition," *National Journal*, Jan. 27, 1996.

Sierra Club

The Sierra Club, an environmental group with a membership of more than 740,000 people, is a 501(c)(4) that maintains a separate Section 527 account. The organization exclusively uses money from its 527 account to pay for ads intended to influence elections, the group's lawyer told Public Citizen.ⁱ

The 501(c)(4) does play a role in affecting elections, but it does so in a fundraising capacity that does not require disclosure to the IRS.

Since 2002, the Sierra Club's 501(c)(4) entity has contributed \$5.4 million to its 527 entity.ⁱⁱ These expenditures would appear aimed at influencing elections because "support of electoral programs" is the 527 entity's expressed purpose.ⁱⁱⁱ

But these transfers do not need to be reported to the IRS as "political" expenditures, the IRS term for expenses intended to influence elections.^{iv}

Here's why: In cases where the Sierra Club has moved funds from its 501(c)(4) to its Section 527 account, it has done so promptly after receiving the money from its members, the group's lawyer told Public Citizen.^v In those cases, the 501(c)(4) entity has served as a "conduit," in IRS terminology. When a 501(c)(4) entity serves as a conduit between a contributor and a 527 account, the IRS treats the transaction as if the money were contributed directly to the 527.^{vi}

Thus, the 501(c)(4) does not need to record its transfers to the 527 as political expenditures. If the Sierra Club transferred money from its general reserves to its 527, such transfers would likely qualify as political expenditures.^{vii}

Taglines in Sierra Club commercials often say its ads were paid for by the Sierra Club (the name of the 501(c)(4) entity) or one of the organization's local chapters, which are also part of the 501(c)(4) entity.^{viii} These taglines suggest that the ads were funded by the 501(c)(4). But, because the Sierra Club Voter Fund is part of the same corporate entity as the 501(c)(4), the group believes it is accurate to attribute ads financed by the Voter Fund to the umbrella "Sierra Club" or to any of its various local chapters.^{ix}

ⁱ Conversations between Sierra Club outside counsel Holly Schadler and Public Citizen researcher Taylor Lincoln and Public Citizen Litigation Group Counsel Scott Nelson, various dates in October 2004.

ⁱⁱ Web site of "Silent Partners," a project of the Center for Public Integrity. Available at www.publici.org/527. Viewed on Oct. 26, 2004.

ⁱⁱⁱ Sierra Club Voter Education Fund Form 990, 2002.

^{iv} IRS Form 990 instructions, Line 81, 2003. Available at www.irs.gov.

^v Conversations between Sierra Club outside counsel Holly Schadler and Public Citizen Senior Researcher Taylor Lincoln and Public Citizen Litigation Group Counsel Scott Nelson, various dates in October 2004.

^{vi} IRS spokeswoman Nancy Mathis, e-mail to Public Citizen Senior Researcher Taylor Lincoln, Oct. 6, 2004.

^{vii} IRS spokeswoman Nancy Mathis, e-mail to Public Citizen Senior Researcher Taylor Lincoln, Oct. 6, 2004.

^{viii} Transcripts of at least 33 Sierra Club ads, 2000-2004.

^{ix} Conversations between Sierra Club outside counsel Holly Schadler and Public Citizen Senior Researcher Taylor Lincoln and Public Citizen Litigation Group Counsel Scott Nelson, various dates in 2004.

The Sierra Club is closely aligned with Democratic-leaning organizations. Sierra Club Executive Director Carl Pope was present at an organizing meeting in November 2002 that eventually resulted in the creation of America Votes, a 527 group that is coordinating other pro-Democratic 527 and 501(c)(4) groups.^x The Sierra Club has given \$50,000 to America Votes. Pope is also a founding partner and board member of America Coming Together, a 527 group that has a stated purpose of giving President Bush “a one-way ticket back to Crawford, Texas.”^{xi}

Former Sierra Club political coordinator Margaret Conway acknowledged the Sierra Club’s alliances with other pro-Democratic independent groups in a March 2004 interview. “The Democratic Party might be more worried because they have less control now, but we’ve never had such close coordination,” Conway said.^{xii}

While the Sierra Club primarily supports Democratic candidates, it is not exclusively partisan. For example, the group broadcast ads supporting Sen. Susan Collins (R-Maine) in 2002.^{xiii} But the Sierra Club makes no secret of its enmity for President Bush. Its Web site carries a link to the *Big Book of Bush*, which is hailed as, “Scarier than Stephen King.” The group endorsed Democratic nominee John Kerry for president in 2004.^{xiv}

^x Jeanne Cummings, “Shadow Democrats Work Around Ban on Unlimited Donations,” *Wall Street Journal*, Dec. 2, 2003.

^{xi} Cover of America Coming Together direct mail piece, 2004; America Coming Together Web site. Available at www.actforvictory.org. Viewed on May 10, 2004.

^{xii} Aaron Bernstein, Paula Dwyer and Lorraine Woellert, “Inside the Dems’ Shadow Party: How They’re Using Soft Money and Private Groups to Combat the GOP Money Machine,” *Business Week*, March 22, 2004.

^{xiii} Shelby Polakoff, “Sierra Club Ads Use Patriotic Imagery,” *National Journal*, June 25, 2002.

^{xiv} Sierra Club Web site. Available at www.sierraclub.org. Viewed on May 21, 2004.

Social Security Choice.org

Social Security Choice.org (SSC), a 501(c)(4) group that favors allowing people to funnel their Social Security withholdings into personal retirement accounts, ran 60-second radio spots right up to Election Day 2002 favoring four Republican candidates involved in hotly contested races.ⁱ

The advertisements, which had “cookie cutter” scripts customized to individual candidates, warned that the Social Security system was on a path to bankruptcy if it was not fixed, and added that each Republican candidate “understands this urgent need” and is “taking action to save the system.”ⁱⁱ

Despite the proximity of its communications to Election Day, and SSC’s choice to praise candidates in tight races, the group reported zero political expenditures to the IRS in 2002.ⁱⁱⁱ In effect, the group claimed that none of its advertisements were intended to influence the outcomes of elections.^{iv} That claim seems particularly dubious in the cases of two of the four candidates that SSC praised (Steve Pearce of New Mexico and Suzanne Haik Terrell of Louisiana) because they held no federal office at the time and, thus, were in no position to take action on Social Security policy.

SSC’s leaders are closely connected with two other ideological Washington non-profits: the Cato Institute and U.S. Term Limits.

SSC principals and consultants include the Cato Institute’s president, a senior Cato fellow, a member of Cato’s board of directors, the director of a Cato project on Social Security privatization, and an adviser to Cato’s Social Security project. They include Stephen Moore, president of the conservative 527 group Club for Growth, who is on SSC’s board of advisers and on Cato’s board of directors. SSC’s leaders also include three members of the board of directors of U.S. Term Limits, with whom SSC shares office space. At least four SSC principals and consultants work for investment firms.^v

Although SSC bills itself as a grassroots organization, the group received the vast majority of its funding in 2002 – 96.8 percent – from 16 donors who each gave \$5,000 or more.^{vi}

ⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

ⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff; “Social Security Choice.org Launches Ad Campaign in Georgia,” Social Security Choice.org press release, Oct. 29, 2002.

ⁱⁱⁱ Social Security.org 990 form, 2002.

^{iv} IRS Form 990 Instructions, Line 81, 2003. Available at www.irs.gov.

^v Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{vi} Social Security Choice.org 990 form, 2002.

United Seniors Association

United Seniors Association, which spent an estimated \$13.6 million to influence at least 25 U.S. Senate and House races in 2002, has been active in at least 17 contests so far in 2004, including spending at least \$370,500 to help Rep. Jim Gerlach (R-Pa.) and at least \$141,000 to assist Rep. Phil Crane (R-Ill.).ⁱ [See Figure 10]

USA burst onto the soft money scene in 2002, when it spent \$18.6 million on radio and television placements, according to its filing with the IRS.ⁱ Some of its expenditures paid for issue advocacy communications in the summer of that year while Congress was debating a Medicare prescription drug bill, but USA reserved the majority of its advertising budget for the two months before Election Day.

USA ran advertisements supporting 19 U.S. House candidates and six U.S. Senate candidates during those two months. Sixteen of the 19 House candidates supported by USA were Republicans; of those, 15 were involved in races deemed “competitive” by political handicapper Charlie Cook. USA ran ads in six of that fall’s 34 U.S. Senate contests, including six of the seven contests that Cook rated most competitive.ⁱⁱ In each Senate contest, USA either praised Republicans or criticized Democrats.ⁱⁱⁱ

USA was founded by Richard Viguerie, a conservative who pioneered the art of using direct mail to solicit small political contributions.^{iv} But the group has grown increasingly reliant on large donors in recent years. USA, which had 2001 revenue of \$8.6 million, posted \$25.4 million in revenue in 2002; of that, \$20.1 million came from a single donor, according USA’s filing with the IRS.^v PhRMA, the trade association of the brand-name prescription drug industry, said it gave “an unrestricted educational grant” to USA in 2002.^{vi} Because most of USA’s ads emphasized prescription drugs, it is likely that PhRMA was the \$20.1 million contributor. In 2001, USA reported to the IRS that it received a \$1.5 million contribution from PhRMA.^{vii}

USA reported \$18.6 million in expenditures for “radio/TV placements” in 2002.^{viii} Researchers at the Wisconsin Advertising Project, the foremost academic research program assessing the political content of television ads, concluded that 72.9 percent of USA’s television

ⁱ United Seniors Association 990 form, 2002.

ⁱⁱ *The Cook Political Report*, Oct. 4, 2002; *The Cook Political Report*, Oct. 20, 2002.

ⁱⁱⁱ Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

^{iv} Erik Eckholm, “Fear in the Mail,” *New York Times*, Nov. 12, 1992.

^v United Seniors Association 990 forms, 2000-2002.

^{vi} Public Citizen interview with PhRMA Spokesman Jeff Trewhitt in “United Seniors Association: Hired Guns for PhRMA and Other Corporate Interests,” Public Citizen report, July 2002; Tom Hamburger, “Drug Industry Ads Aid GOP,” *Wall Street Journal*, June 18, 2002.

^{vii} United Seniors Association 990 forms, 2000-2002.

^{viii} United Seniors Association 990 form, 2002.

advertisements in the project's database in 2002 were intended to influence the outcomes of elections.^{ix}

USA reported zero political activity in its 2002 IRS filing, as it had in previous years and did again in 2003.^x In effect, the group claimed none of its ads were intended to influence the outcomes of elections.^{xi}

USA's officers and consultants are steeped in Republican politics. Its president is Charles Jarvis, who served in the Reagan and George H.W. Bush administrations. Members of its board of directors included Jack Abramoff, who is among the foremost fundraisers for the Republican Party and a top fundraiser for President Bush, and Craig Shirley, a Republican operative whose involvement with soft money political spending dates back to at least 1988, when he played a leading role in creating the "Willie Horton" political ad.^{xii} USA's lobbyist, David Keene, is chairman of the American Conservative Union, and previously worked for Vice President Spiro Agnew, Ronald Reagan, George H.W. Bush and Bob Dole.^{xiii}

^{ix} "2002 Spending By Groups Which Had 527s," Wisconsin Advertising Project, June 23, 2004.

^x United Seniors Association 990 forms, 2000-2002.

^{xi} IRS Form 990 instructions, Line 81, 2003. Available at www.irs.gov.

^{xii} Nicholas Goldberg, "Cuomo Targets Economy, Quayle," *Newsday*, Nov. 22, 1991.

^{xiii} Public Citizen analysis of data contained in the *New Stealth PACs* database. Data collected from groups' Web sites and annual tax forms, press reports, academic papers on activities of independent political groups and interviews by Public Citizen research staff.

Figure 10

Election Contests in Which USA Has Been Active – 2004

State	District	Republican Candidate	Democratic Candidate	Candidate Praised	Praised Candidate Vote on Medicare Bill	Cook's Rating
Ala.	3	Mike Rogers*	Bill Fuller	Mike Rogers (R)	Yes	Likely Republican
Colo.	7	Bob Beauprez*	Dave Thomas	Bob Beauprez (R)	Yes	Lean Republican
Conn.	2	Rob Simmons*	Jim Sullivan	Rob Simmons (R)	Yes	Lean Republican
Ga.	3	Calder Clay	Jim Marshall*	Jim Marshall (D)	Yes	Lean Democratic
Ga.	12	Max Burns*	John Barrow	Max Burns (R)	Yes	Toss Up
Ill.	8	Phil Crane*	Melissa Bean	Phil Crane (R)	Yes	Likely Republican
Ind.	2	Chris Chocola*	Joe Donnelly	Chris Chocola (R)	Yes	Likely Republican
Mo.	6	Sam Graves*	Charles Broomfield	Sam Graves (R)	Yes	Not Competitive
N.M.	1	Heather Wilson*	Richard Romero	Heather Wilson (R)	Yes	Lean Republican
N.M.	2	Steve Pearce*	Gary King	Steve Pearce (R)	Yes	Likely Republican
N.C.	8	Robin Hayes*	Beth Troutman	Robin Hayes (R)	Yes	Likely Republican
N.D.	0	Duane Sand	Earl Pomeroy*	Earl Pomeroy (D)	Yes	Lean Democratic
Ore.	1	Goli Ameri	David Wu*	David Wu (D)	Yes	Likely Democratic
Pa.	6	Jim Gerlach*	Lois Murphy	Jim Gerlach (R)	Yes	Lean Republican
Tenn.	4	Janice Bowling	Lincoln Davis*	Lincoln Davis (D)	Yes	Likely Democratic
Texas	21	Lamar Smith*	Rhett Smith	Lamar Smith (R)	Yes	Not competitive
Utah	2	John Swallow	Jim Matheson*	Jim Matheson (D)	Yes	Lean Democratic

Sources: News stories and conversations with reporters and campaign officials in the targeted districts; House Roll Call No. 669, 1st Session, 108th Congress; *Cook Political Report*, Sept. 7, 2004.

* Denotes incumbent

U.S. Chamber of Commerce

Influencing elections has historically been a key function of the U.S. Chamber of Commerce, a 501(c)(6), and 2004 promises to be no different.

Bolstered by \$10 million in contributions from drug companies in 2000,ⁱ the Chamber disseminated messages that appeared intended to influence at least 22 congressional contests, and at least eight state judicial contests. The group spent nearly \$1.2 million in the Michigan U.S. Senate race alone.ⁱⁱ

The Chamber backed off television advertising in 2002, opting instead to fund a get-out-the-vote grassroots effort while providing other groups with money to air advertisements. In the 2002 election cycle, the Chamber's grassroots effort included sending out 50 field coordinators to 32 states, mailing almost 2 million letters, and making about 1 million get-out-the-vote phone calls – almost double its 2000 figures in those categories – the *National Journal* reported.ⁱⁱⁱ

The Chamber has also funded other groups. It gave \$2.6 million in 2002 to the American Taxpayers Alliance (ATA), which among other things ran ads attacking a Democratic Illinois Supreme Court candidate.^{iv} The Chamber also gave an unspecified amount to Mississippians for Economic Progress, a group that ran ads in 2002 attacking Democratic Mississippi Supreme Court incumbent C. P. (Chuck) McRae.^v The Chamber's apparent silence in the 2002 Mississippi judicial races, combined with the sudden burst of advertising by the Law Enforcement Alliance of America in the Mississippi Supreme Court contest, prompted the *Wall Street Journal* to speculate that the Chamber was funding that group. (As of two weeks before the election, the LEAA had run more ads in that contest than the two candidates combined.) The Chamber declined to comment on whether it was behind the LEAA's work.^{vi}

Despite evidence of its payments to other groups, neither the Chamber nor the U.S. Chamber Institute for Legal Reform, an affiliate that promotes pro-business judges and seeks legislation to limit plaintiffs' rights, reported activity in 2000, 2001 or 2002 on the line of their tax form that calls for declarations of grants and allocations.^{vii} In response to an inquiry from Public Citizen about the definition of grants for that line on the tax form, the IRS pointed to federal regulatory language describing grants as including "loans, program-related investments and payments to exempt organizations in furtherance of their exempt purpose."^{viii}

ⁱ Tom Hamburger, "Drug Lobby Wins Big With Massive Spending Against Medicare Plan," *Wall Street Journal*, Nov. 9, 2000.

ⁱⁱ Public Citizen analysis of 2000 *Buying Time* Database; Campaign Media Analysis Group (CMAG) reports, 2000.

ⁱⁱⁱ Peter H. Stone and Shawn Zeller, "Business and Conservative Groups Won Big," *National Journal*, Nov. 9, 2002.

^{iv} American Taxpayers Alliance 990 form, 2002.

^v Robert Lenzner and Matthew Miller, "Buying Justice; For Years Trial Lawyers Owned State Courts. Now Big Business Is Striking Back," *Forbes*, July 21, 2003.

^{vi} Michael Orey, "Business Targets Judicial Race in 'Tort Mecca,'" *Wall Street Journal*, Oct. 30, 2002.

^{vii} U.S. Chamber of Commerce and Institute for Legal Reform 990 forms, 2000-2002.

^{viii} IRS spokeswoman Nancy Mathis, e-mail to Public Citizen Senior Researcher Taylor Lincoln, Aug. 5, 2004.

The State of Mississippi sued the Chamber following the 2000 election cycle, alleging that the organization's ads in state judicial elections constituted unreported electioneering activity. The Chamber argued that its messages were not subject to regulation because they did not invoke "express advocacy" words, such as "vote for" or "vote against." A federal judge disagreed, calling the messages "thinly veiled exhortations to support the campaigns of ... [particular] candidates."^{ix} The 5th Circuit U.S. Court of Appeals subsequently overruled that decision, finding the Chamber did not violate Mississippi's election laws because it did not use express advocacy.^x

Notably, the IRS definition of political expenditures, those for activities "intended to influence the selection, nomination, election, or appointment of anyone to a federal, state, or local public office,"^{xi} is far broader than the express advocacy standard. Nonetheless, the Chamber reported zero political expenditures to the IRS each year from 2000 to 2002, alleging that none its advertisements and none of its contributions to other groups were intended to influence the outcomes of elections.^{xii}

The Chamber has made no secret of its plans to influence the 2004 elections. The group said it intends to spend \$40 million to defeat state and federal candidates who oppose its agenda. Its top target is Senate Minority Leader Tom Daschle (D-S.D.).^{xiii} The Chamber followed through on its pledge by launching a \$400,000 ad campaign in mid-August that accused Daschle of jeopardizing South Dakotans' access to health care.^{xiv} The Chamber also broadcast an ad praising Rep. Jim DeMint (R-S.C.) in his campaign for the U.S. Senate.^{xv}

^{ix} Timothy R. Brown, "Chamber Must List Political Spending," *Baton Rouge Advocate*, Nov. 3, 2000.

^x Editorials, (Jackson, Miss.) *Clarion-Ledger*, Nov. 14, 2002.

^{xi} IRS Form 990 Instructions, Line 81, 2003. Available at www.irs.gov.

^{xii} U.S. Chamber of Commerce 990 forms, 1999-2002; IRS Form 990 Instructions, Line 81, 2003. Available at www.irs.gov.

^{xiii} Brody Mullins, "Chamber Targets Daschle," *Roll Call*, Feb. 2, 2004.

^{xiv} U.S. Chamber of Commerce Web site. (Available at www.uschamber.com. Accessed on Aug. 20, 2004.) and "Group Targets Ads Against Daschle," *Houston Chronicle*, Aug. 20, 2004.

^{xv} Meg Kinnard, "GOP Candidates Fill Airwaves in S.C. Senate," *National Journal*, May 10, 2004.

Appendix I: Permissible Activities of Organizations

Regulatory Category	501(c)(4), (c)(5) and (c)(6) Groups and Qualified Non-Profit Corporations	Qualified Non-Profit Corporations (also known as Massachusetts Citizens for Life, or MCFL, groups)	Section 527 Groups	Federally Regulated PACs
Express Advocacy: Defined by federal election law as political communications that use the “magic words,” such as “vote for” or “vote against”	Prohibited unless registered as limited “independent expenditures” and subject to the disclosure requirements and limits of FECA.*	Permitted*	Prohibited unless registered as limited “independent expenditures” and subject to the disclosure requirements and limits of FECA.*	Permitted
Electioneering Communications: Defined by the Bipartisan Campaign Reform Act (BCRA) as radio or television messages that depict a candidate within 60 days of a general election, 30 days of a primary election.	Prohibited unless financed out of a separate fund that does not accept contributions from corporations or unions. Subject to FECA disclosure requirements.*	Permitted*	Prohibited unless financed out of a separate fund that does not accept contributions from corporations or unions. Subject to FECA disclosure requirements.*	Permitted
Political Expenditures: Defined broadly by the IRS as expenditures for activities designed to influence the selection of any individual to a federal, state or local office.	Permitted, but not as the “primary purpose” of the organization.	Permitted, but not as the “primary purpose of the organization.”	Permitted	Permitted
Contribution Limits & Regulations:	May receive unlimited contributions from individuals, corporations and unions.	May receive unlimited contributions from individuals, but none from corporations or unions.	May receive unlimited contributions from individuals, corporations and unions.	Individuals, Parties and other PACs may contribute \$5,000 per year. Corporate and union contributions prohibited.
Public Disclosure Requirements:	Annual tax forms must be available for public inspection. Tax forms include line items for total revenues, expenditures and expenditures intended to influence the outcomes of elections. The forms are not available online. Must disclose Electioneering Communications to FEC within 24 hours.	Must adhere to all rules applicable to 501(c) groups. Required to disclose contributors for donations specifically earmarked for electioneering activity. Required to report independent expenditures and electioneering communications to the FEC, though not contributors (other than earmarked).	Must disclose contributions and expenses on a quarterly basis in an election year, with additional pre-election and post-election reports. Biannual reports are required in non-election years. The data is available online. Must disclose Electioneering Communications to FEC within 24 hours.	Must disclose contributions and expenses on a quarterly basis in an election year, with additional pre-election and post-election reports. Biannual reports are required in non-election years. The data is available online.

* According to FEC requirements, Section 527s and 501(c) non-profits may not have as their “major purpose” independent expenditures or electioneering communications without assuming PAC status, fully subject to FECA. 501(c)(5) labor unions, like 501(c)(6) corporations, are prohibited from making independent expenditures and electioneering communications, unless they establish a separate fund and operate under PAC rules.

Appendix II: The IRS “Facts and Circumstances” Test

The following text is drawn from the IRS Internal Revenue Bulletin 2004-4, which offers guidance on whether advocacy communications by 501(c) groups should be categorized as political (i.e., electoral) expenditures.

Note that the use of the word “exempt” in the text below refers to activities exempt from tax for organizations registered under Section 527 of the tax code, the category reserved for political organizations. Those groups are exempt from paying taxes on political communications, which Section 501(c) groups, in some instances, are required to pay.

Excerpt from Internal Revenue Bulletin: 2004-4, Jan. 26, 2004:

All the facts and circumstances must be considered to determine whether an expenditure for an advocacy communication relating to a public policy issue is for an exempt function under Section 527(e)(2). When an advocacy communication explicitly advocates the election or defeat of an individual for public office, the expenditure is clearly for an exempt function ... However, when an advocacy communication relating to a public policy issue does not explicitly advocate the election or defeat of a candidate, all the facts and circumstances need to be considered to determine whether the expenditure is for an exempt function.

In facts and circumstances ... factors that tend to show that an advocacy communication on a public policy issue is for an exempt function under Section 527(e)(2) include, but are not limited to, the following:

- (a) The communication identifies a candidate for public office;
- (b) The timing of the communication coincides with an electoral campaign;
- (c) The communication targets voters in a particular election;
- (d) The communication identifies that candidate’s position on the public policy issue that is the subject of the communication;
- (e) The position of the candidate on the public policy issue has been raised as distinguishing the candidate from others in the campaign, either in the communication itself or in other public communications, and
- (f) The communication is not part of an ongoing series of substantially similar advocacy communications by the organization on the same issue.

In facts and circumstances ... factors that tend to show that an advocacy communication is not for an exempt function under Section 527(e)(2) include, but are not limited to, the following:

- (a) The absence of any one or more of the factors listed in a) through f) above;

(b) The communications identifies specific legislation, or a specific event outside the control of the organization, that the organization hopes to influence;

(c) The timing of the communication coincides with a specific event outside the control of the organization that the organization hopes to influence, such as a legislative vote or other major legislative action (for example, a hearing before a legislative committee on the issue that is the subject of the communication);

(d) The communication identifies the candidate solely as a government official who is in position to act on the public policy issue in connection with the public event (such as a legislator who is eligible to vote on the legislation, and

(e) The communication identifies the candidate solely in the list of key or principal sponsors that is the subject of the communication.

Appendix III: Sample Advertisements by Electioneering 501(c) Non-Profit Groups



Ad Detector

BRAND: POL-US SENATE+
 TITLE: MI/COC Stabenow Death Tax
 COMMERCIAL: MI/COC Stabenow Death Tax
 LENGTH: 30
 FRAMES: 8

CMAG
 REPORTS

1 of 1

A007QFWP.ESB



[Melanie]: "My mom started this business and my brother and I worked hard to make it grow.



One day we hope to own it but because of the law, we can



never be sure." [Announcer]: Because of the Death tax, people like Melanie



are always at risk of losing family businesses. Debbie Stabenow



voted twice against getting rid of the Death tax.



[Melanie]: "Everything we have worked for can be taken away in an instant and that's not fair."



[Announcer]: Call Debbie Stabenow. Tell her our working families need a break.



[PFB Michigan Chamber of Commerce]

Campaign Media Analysis Group
 703-683-7110
www.politicsonTV.com



Ad Detector

BRAND: BUSH FOR PRESIDENT+
TITLE: AJS/Gore Are You Taxed Enough Already
COMMERCIAL: AJS/Gore Are You Taxed Enough Already 1 of 1
LENGTH: 30
FRAMES: 7



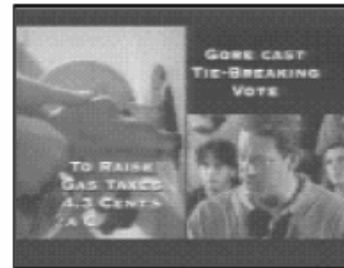
A007U0WQ.ESB



[Announcer]: Are you taxed enough already? Not according to Al Gore. Gore plans to squeeze more money out of middle class families at the



gasoline pump. Gore cast the tie-breaking vote to raise gas taxes



4.3 cents a gallon. He admits he'll add more taxes on gasoline



with what he calls a CO2 tax. Gore supported a call to raise taxes



so much that gas would cost \$3 a gallon. And Gore's ideas are



so extreme. If they ever came to pass, Americans would truly be



Gored at the pump. [PFB: Americans for Job Security]

Campaign Media Analysis Group
 703-683-7110
www.politicsonTV.com

Appendix IV: Tax and Legal Terms

501(c)(3). Section of the IRS tax code reserved for organizations operated exclusively for religious, charitable, scientific and educational purposes, also known broadly as charities. These groups have tax-exempt status and may receive tax-deductible contributions. They may not devote a substantial amount of their activities to lobbying, which the IRS defines as attempts to influence legislation. These groups are also prohibited from intervening in political campaigns to support or oppose candidates. Section 501(c)(3) groups must make their annual tax forms available to the public but are not required to disclose contributors' names.

501(c)(4). Section of the IRS tax code reserved for civic leagues and other organizations operated exclusively for the promotion of social welfare. These groups have tax-exempt status but may not receive tax-deductible contributions. They may engage in unlimited amounts of lobbying activity, which the IRS defines as attempts to influence legislation, but they may not be primarily engaged in efforts to affect the outcomes of elections. Those groups that attempt to influence elections are required to pay taxes on their election-oriented expenditures or their organization's overall investment income for the year, whichever is less. Section 501(c)(4) groups must make their annual tax forms available to the public but are not required to disclose contributors' names.

501(c)(5). Section of the IRS tax code reserved for labor, agricultural or horticultural organizations. These groups have tax-exempt status but may not receive tax-deductible contributions. They may engage in unlimited amounts of lobbying activity, which the IRS defines as attempts to influence legislation, but they may not be primarily engaged in efforts to affect the outcomes of elections. Those groups that attempt to influence elections are required to pay taxes on their election-oriented expenditures or their organization's overall investment income for the year, whichever is less. Section 501(c)(5) groups must make their annual tax forms available to the public but are not required to disclose contributors' names.

501(c)(6). Section of the IRS tax code reserved for business leagues. These groups have tax-exempt status. Members of business leagues may categorize their dues as tax deductible business expenses, but not the portion of dues that the business league uses for lobbying and political purposes. Section 501(c)(6) groups may engage in unlimited amounts of lobbying activity, which the IRS defines as attempts to influence legislation, but they may not be primarily engaged in efforts to affect the outcomes of elections. Those groups that attempt to influence elections are required to pay tax on their election-oriented expenditures or their organization's overall investment income for the year, whichever is less. Section 501(c)(6) groups must make their annual tax forms available to the public but are not required to disclose contributors' names.

527. Section of the IRS tax code reserved for political organizations, encompassing parties, committees and other organizations that exist primarily for the purpose of influencing the outcomes of elections. Organizations that file under Section 527 must report their contributions and expenditures to the IRS, which posts the data on its Web site.

Bipartisan Campaign Reform Act of 2002 (BCRA). Also known as the McCain-Feingold law, it amended the Federal Election Campaign Act (FECA) by banning large, unrestricted contributions known as “soft money” to political parties and prohibited independent organizations from spending money from corporations or unions for “electioneering communications” within 30 days of a primary election and 60 days of a general election. BCRA was ratified by Congress and signed into law in March 2002, took effect on Nov. 6, 2002, and was upheld by the U.S. Supreme Court on Dec. 10, 2003.

Electioneering communication. Official term for a broadcast message that refers to a federal candidate, is publicly aired within 60 days of a general election or 30 days of a primary or convention, and is targeted to voters in the candidate's district. BCRA banned groups from using money from unions or corporations to pay for electioneering communications, though such ads may be paid financed with contributions from individuals, which are not limited. Independent organizations are required to report itemized contributions and expenditures for such communications to the FEC within 24 hours.

Express advocacy. Communications or other actions that overtly promote the election or defeat of a candidate. The term derives from a 1976 Supreme Court opinion in *Buckley v. Valeo*, which upheld portions of a law imposing limits on campaign contributions. In *Buckley*, the court defined ads subject to federal regulation as those that “in express terms advocate the election or defeat of a clearly identified candidate for federal office.” A footnote furnished such examples of express advocacy as “vote for,” “elect,” “support,” and “cast your ballot for.”

Hard money. Informal term referring to contributions to political campaigns, committees and parties that are regulated by federal election law, limited in scope, and subject to public disclosure. Individuals are permitted to contribute a maximum of \$2,000 to a federal candidate per election, \$5,000 to a political action committee per year, and up to \$25,000 to a national political party per year. Additionally, individuals are limited to \$95,000 in contributions every two years – \$37,500 to candidates and \$57,500 to national parties and federal PACs.

Independent expenditure. An expenditure for communications expressly advocating the election or defeat of a candidate that is not made in cooperation with a candidate or political party. Such expenditures generally must be made with federally regulated “hard money” and itemized contributors and expenditures for such communications must be reported to the Federal Election Commission.

Political Action Committee (PAC). A federally regulated organization that is free to make campaign contributions and engage in express advocacy for the election or defeat of political candidates. Contributions to PACs must come in the form of “hard money,” subject to federal contribution limits and disclosure requirements.

Political expenditure. IRS term for money spent to influence the selection, nomination, election, or appointment of anyone to a federal, state or local public office, or office in a political organization, or as presidential or vice presidential electors.

Qualified Non-profit Corporation (QNC). An ideological 501(c)(4) group that is exempt from the prohibition against corporations making express advocacy communications in federal elections by a decision of the U.S. Supreme Court. QNCs are permitted to accept unlimited contributions from individuals and spend that money for communications expressly advocating the election or defeat of federal candidates as well as for electioneering communications. QNCs may not accept money from corporations or unions, have substantial business income, nor have electioneering as their major purpose. The groups are required to disclose expenditures to the FEC but are generally not required to disclose contributions, unless the contributions are specifically earmarked for the electioneering activity. These groups are also known as Massachusetts Citizens for Life groups (or MCFLs), referring to the pro-life group that successfully challenged the law banning corporations from making express advocacy communications in federal elections.

Soft money. Informal term that refers to campaign funds derived directly from corporate or union treasuries or wealthy individuals in excess of the hard money contribution limits of the Federal Election Campaign Act.

Appendix V: Methodology

Selection of Groups for the Study

Groups included in the *New Stealth PACs* database demonstrated significant involvement in elections during at least one cycle from 2000 to 2004. The selection of groups is not intended to be all encompassing nor are all election activities of the selected groups included.

Finances

Data in this section came exclusively from organizations' 990 forms, their annual tax submissions to the IRS. The forms are publicly accessible by law. Because organizations are not required to file 990 forms for several months after the end of their fiscal years, and often request extensions that last for several additional months, the most recent data available in many instances is from 2002.

Election Activities

Election activities included in the *New Stealth PACs* database were primarily communications determined by academic experts or Public Citizen to closely match the IRS definition of political expenditures. (The IRS defines these as expenditures "intended to influence the selection, nomination, election, or appointment of anyone to a federal, state, or local public office.")

Reports of election activities were collected from academic studies, news coverage and the organizations' Web sites. In general, election activities refer to discreet communications, such as television commercials or direct mail items. In certain cases, however, Public Citizen obtained a summary, but not specifics, of a group's activities in a given contest. In those cases, the activities are treated as a single episode and summarized in the description.

Some data in this project are derived from a series of research publications associated with the studies done by a team of political scientists and legal scholars at the University of Wisconsin, Brigham Young University and New York University's Brennan Center. These studies were part of the "Buying Time" research project, which was supported by the Pew Charitable Trusts. The academic team monitored political broadcasts during the elections, classified their content and analyzed their significance in regard to the campaigns and campaign financing. Research reports produced by the "Buying Time" studies and used in this project include: Craig Holman and Luke McLoughlin, *Buying Time 2000: Television Advertising in the 2000 Federal Elections* (2001); David B. Magleby and J. Quin Monson, *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Elections* (2003); and Ken Goldstein, *BCRA and Interest Groups Ads in the 2002 Congressional Elections* (2004). Dr. Holman, now of Public Citizen, as well as Drs. Magleby and Goldstein, submitted their research to federal courts and served as witnesses in *McConnell v. FEC*, the Supreme Court case that largely upheld the constitutionality of the Bipartisan Campaign Reform Act of 2002.

Cost estimates of election activities came from media reports and the “Buying Time” studies – which employed data from the Campaign Media Analysis Group (CMAG), a company that monitors political television advertisements across the nation.

Funders

Section 501(c) groups must disclose to the IRS the names of contributors who gave \$5,000 or more in a year. By examining the Form 990 Schedule B, Public Citizen could gather some information about how many major donors support a 501(c) group and how large their gifts are – but the names of donors are not a matter of public record. Specific funder information in the *New Stealth PACs* database was derived primarily from news reports. Occasionally, groups provided Public Citizen with unredacted copies of their IRS disclosure forms.

Principals and Consultants

This section consists of up to three categories of information for each group: “Principals and Staff,” “Individuals Who Served as Consultants” and “Organizations that Served as Consultants or Vendors.”

“Principals and Staff” includes people who have been officers of a group, served on the group’s board of directors or served in roles that appeared tied to the group’s electoral work. For large organizations, lists were edited to exclude employees who did not appear to be involved in the group’s electoral activities. Members of boards of directors were included in nearly all instances. IRS 990 forms were the primary source of information for this section.

“Individuals Who Served as Consultants” refers to people who serve as independent contractors for a group in capacities that appeared tied to the group’s electoral pursuits. Media reports were the primary source of information for this section.

“Organizations that Served as Consultants or Vendors” refers to companies offering political services, such as media consulting, of which a 501(c) group was a client. Media reports were the primary source of information for this section.

In each of the three categories above, the *New Stealth PACs* database includes selected other affiliations of the principals and consultants. For example, it includes individuals’ affiliations with other partisan Section 501(c) groups, as well as political campaigns, political committees and political parties.

Selected Affiliates

This section includes organizations that have legal connections to the groups in the *New Stealth PACs* database. The most common examples include groups that also maintain a federally regulated PAC, as well as Section 527 and Section 501(c)(3) arms. Affiliates that appeared to have no connection to the *New Stealth PACs*’ political pursuits were excluded. Organizations’ 990 forms were the primary source of information for this section.

Coalition Partners

This section includes organizations of which a New Stealth PAC has been a member (e.g., the United Seniors Association was a member of the 21st Century Energy Project), organizations with which the New Stealth PAC has coordinated activities (e.g., the 60 Plus Association and Citizens for a Sound Economy worked together to promote one of President Bush's tax cut proposals), and organizations that simply describe themselves as allies of one another (e.g., American Family Voices' Web site lists United for a Fair Economy as an "action partner."). Media reports and organizations' Web sites were the primary sources of information for this section.

Endnotes

¹ Two different sets of laws regulate political activities of non-profit organizations: the Federal Election Campaign Act (FECA) and the Internal Revenue Code. The laws use different definitions of activities intended to influence elections and seek different objectives.

FECA, which specifically regulates campaign activity of organizations, operates on a narrow definition of electioneering activity. Under FECA, as amended by the Bipartisan Campaign Reform Act (BCRA), electioneering activity includes: a) *Express advocacy* communications, which employ the “magic words” of “vote for,” “vote against,” “elect” or something comparable; and b) *Electioneering communications*, which depict a federal candidate within 60 days of a general or runoff election or 30 days before a primary election or convention, and which target the voting constituency in that election.

The Internal Revenue Code specifically regulates organizations’ adherence to the guidelines of their tax status. The tax code uses a broad definition of “political,” which covers activities “intended to influence the election or appointment of individuals to a federal, state, or local office, or an office in a political organization.” Section 501(c) organizations are required to devote the majority of their efforts to the furtherance of their tax-exempt purpose, and political activities do not fulfill this standard. Thus, a 501(c) organization may not be primarily engaged in political activities.

² Public Citizen’s analysis of data contained in *the New Stealth PACs* database. Data collected from groups’ Web sites and annual tax forms, press reports, academic papers on activities of independent political groups, and interviews by Public Citizen research staff. Data is as of Aug. 23, 2004, and thus does not include not communications Public Citizen learned of more recently.

³ The National Education Association did not appear to have documentable election activities, as defined by the IRS, from 2000 to 2004. However, the group is included in the *New Stealth PACs* database because it is one of only two groups known to be under investigation by the IRS for failing to accurately report political expenditures. Thus, the group belongs in a study of the election activities of 501(c) organizations.

⁴ In certain cases, Public Citizen obtained general reports on groups’ activities but not the content of the messages they disseminated. For example, a report might have said that a group sent out direct mail to a certain number of households. These were treated as single distinct communications, though they may have involved multiple messages in multiple mailings.

⁵ This figure represents confirmed spending by 60 Plus Association on two radio ads, as reported in *The Last Hurrah? Soft Money and Issue Advocacy in the 2002 Congressional Elections*, edited by David E. Magleby and J. Quin Monson, 2003. 60 Plus’ actual spending was almost certainly higher, likely by millions of dollars. But accurate estimates are impossible because no data exists on the costs of direct mailings, 60 Plus’ preferred method of communication with voters. 60 Plus disseminated at least 33 distinct communications – direct mail, radio and telemarketing calls – in the 2002 election cycle. The greatest single line item in the group’s 990 form is for almost \$10.6 million for “Program Expenses, State.” No further elaboration is given.

⁶ Estimated cost of television time purchased by the AFL-CIO, as reported by the Campaign Media Analysis Group (CMAG).

⁷ Figure published by the Wisconsin Advertising Project, based on CMAG’s estimated cost of television time purchased by the AFL-CIO.

⁸ “Interest Groups Begin Last-Minute Pushes In Key States,” *Congress Daily*, Oct. 23, 2002. Publication reported that the Alliance for Retired Americans spent more than \$1 million in the election’s final days.

⁹ America 21 reported on its 990 form that it received \$3.7 million in grants in 2002 “to educate and encourage individuals to participate in the governmental and voting process.” The group reported expenditures of \$3.6 million for “direct mail, e-mail, radio and television advertising to inform and activate citizen involvement in the political and voting process.” Its statement of expenses provides little further insight, as the largest item is for “grants and allocations” (\$3.4 million), and the group did not follow the IRS instruction to attach a schedule. The group’s president, in an e-mail to Public Citizen, said that America 21 engaged in non-partisan activities to boost voter turnout, but declined to offer a breakdown of America 21’s expenditures in 2002. While America 21 direct mail materials obtained by Public Citizen and statements on the group’s Web site about its objectives suggests that much of America 21’s 2002 expenditures were likely intended to influence elections, it is not possible to estimate the ratio of partisan to non-partisan activities in the absence of further information from America 21.

¹⁰ “Planned Parenthood Ad at Top of List,” *USA Today*, Oct. 16, 2000. A report that the group spent \$630,000 on ads in the presidential campaign through Oct. 16, 2000.

¹¹ Figure represents sum of spending, based on media reports, in three contests for which estimates exist. Two additional contests in which ATA advertised, but for which no estimated spending figure are available, were disregarded.

¹² Figure is taken from Americans for Job Security’s fiscal year 1999 tax form, which covers the 2000 election cycle. AJS reported almost \$10.9 million in expenditures, of which \$10.7 million was for program services aimed at “educating the public on pro-business policies through the media.” In extensive searches, Public Citizen has found no example of an AJS communication that did not appear to satisfy the IRS standard for a political expenditure. Consequently, Public Citizen estimated that AJS’s entire program services budget was likely spent for purposes that would satisfy the IRS definition of political expenditures.

¹³ Figure is taken from AJS’s fiscal year 2001 tax form, which covers the 2002 election cycle. AJS reported \$5.2 million in program service spending, which solely included “educating the public on economic issues with a pro-market, pro-paycheck message.” The combination of anecdotal data on AJS’s spending on individual ads (all of which were determined by Public Citizen and researchers at the University of Wisconsin to be intended to influence the outcomes of elections) and the absence of any non-political communications encountered by Public Citizen in extensive research on AJS led Public Citizen to conclude that all of AJS’s “program service” spending likely went toward advertisements that would satisfy the IRS definition of political expenditures.

¹⁴ “Group Hopes \$4 Million in Ads Will Influence Tax Debate,” Associated Press, Sept. 1, 1999. A report that ATR spent \$4 million in fall 1999 on “cookie cutter” advertisements that praised the tax plans of seven Republican senators. Because each of the senators chosen was facing re-election in 2000, the ad campaign was determined by Public Citizen to be intended to influence the outcome of elections. According to CMAG, ATR also ran ads criticizing Republican presidential candidate John McCain in New Hampshire during that state’s primary campaign.

¹⁵ Maryanne George, “15th Congressional District: Dingell, Rivers Trade Verbal Shots,” *Detroit Free Press*, Aug. 1, 2002. Figure reflects spending for one contest (of three) in which the Brady Campaign disseminated political messages. The other two contests in which the group advertised, but for which no spending estimates exist, were disregarded.

¹⁶ Estimated cost of television time purchased by the Business Roundtable, as reported by CMAG.

¹⁷ Figure reflects spending estimates reported by the media for two contests (out of four) in which the Business Roundtable was known to have advertised in 2002. The other two contests, for which no cost estimates are available, were disregarded.

¹⁸ Figure published by the Wisconsin Advertising Project, based on the CMAG’s estimated cost of television time purchased by Citizens for a Sound Economy (CSE). The group also communicated with voters using e-mail, telemarketing and direct mail, but no estimates of the group’s expenditures for those activities exist; and “CSE Connects Directly with Over 1.7 Million Voters,” press release, Nov. 5, 2002. A statement issued on Election Day claiming that the group made contact with more than 1.7 million voters in the run-up to the election.

¹⁹ Christopher Lee, “Special-Interest Group Focuses On Kids,” *Washington Post*, Oct. 20, 2002. A report on Every Child Matters’ spending in the 2002 Colorado U.S. Senate contest.

²⁰ The LEAA reported this figure in its declaration of political expenditures on its 990 form for 2000. No other data are available.

²¹ Figure reflects the sum of the group’s advertising costs, as reflected in media reports, in five of the six contests in which the LEAA was known to have advertised in 2002. The sixth contest, for which no reported estimates exist, was disregarded.

²² League of Conservation Voters Inc., independent expenditure reports filed with the Federal Election Commission, Sept. 30, 2000-Nov. 27, 2000.

²³ League of Conservation Voters Inc., independent expenditure reports filed with the Federal Election Commission, June 1, 2002-Oct. 27, 2002.

²⁴ The NAACP NVF reported this figure in its declaration of political expenditures on its 990 form for 2000.

²⁵ NARAL independent expenditure reports filed with the Federal Election Commission, Oct. 14 to Nov. 27, 2000.

²⁶ NARAL independent expenditure reports filed with the Federal Election Commission, Aug. 8, 2002-Nov. 8, 2002.

²⁷ The NEA acknowledged to Public Citizen that it distributed communications to its members, but such spending is not required to be reported to the IRS as “political.”

²⁸ The NEA acknowledged to Public Citizen that it distributed communications to its members, but such spending is not required to be reported to the IRS as political.

²⁹ Figure reflects the estimated cost of air time purchased by NPLA in the lone contest in which it was known to have advertised in 2000, as reported by CMAG.

³⁰ Eric Black, "Abortion Foes Air Ads Criticizing Wellstone's Stance," *Star-Tribune*, Sept. 4, 2002. Report on NPLA's spending in the Wellstone-Coleman contest. No spending estimates are available for five other contests in which the NPLA was known to have disseminated communications.

³¹ NRA Executive Vice President Wayne LaPierre said in a fundraising letter that the NRA "spent what it took to defeat Al Gore, which amounted to millions more than we had on hand." Given LaPierre's use of the plural, "millions," it is reasonable to assume the group spent at least \$2 million influencing the Bush-Gore contest.

³² Julie Samuels, "Anti-Union Group Hits Dem Senate Hopefuls," *National Journal*, Oct. 17, 2000. Report that the National Right to Work committee ran a \$1 million advertising campaign to influence 2000 congressional contests.

³³ Mark H. Rodeffer, "Three Groups Go After Landrieu," *National Journal*, Dec. 6, 2002. Report on National Right to Work's spending on the one race out of two for which the organization was known to have disseminated an electioneering communication in 2002.

³⁴ Planned Parenthood Action Fund reported this figure in its declaration of political expenditures on its 990 form for 2000.

³⁵ Planned Parenthood Action Fund reported this figure in its declaration of political expenditures on its 990 form for 2000.

³⁶ Progress for America did not appear to begin participating in activities to influence the outcomes of elections until 2003.

³⁷ Figure published by the Wisconsin Advertising Project, based on CMAG's estimated cost of television time purchased by the Seniors Coalition. The Seniors Coalition also distributed direct mail in at least 11 contests in 2002. No spending estimate for that activity is available.

³⁸ The Sierra Club disseminated at least 38 communications in 2000 and 2002 that appeared intended to affect the outcomes of elections. Many were attributed to the "Sierra Club" or one of its state affiliates. However, the Sierra Club informed Public Citizen that those ads were in fact paid for by the Sierra Club Voter Education Fund, the organization's separate Section 527 account. Public Citizen has listed the Sierra Club in this report, which solely concerns 501(c) groups, because the Sierra Club Voter Education Fund is funded in large part by the Sierra Club 501(c)(4) entity.

³⁹ *id.*

⁴⁰ Larry Wheeler, "Democrats Turn Spotlight on Social Security," Gannett News Service, Oct. 9, 2002. A report that Social Security Choice.org that spent \$500,000 on its campaign to affect at least four U.S. Senate and House contests in 2002. Given that the group's revenue was only \$254,068 in 2002, that report seems improbable. Social Security.org reported on its 990 form that it committed \$188,558 to "public relations" in 2002. Because its advertising campaign was the only context in which Social Security Choice.org made news that year, it seems reasonable to estimate that the \$188,558 public relations expenditure paid either for advertising or related costs.

⁴¹ USA reported nearly \$18.6 million in radio and television placements in 2002 on its 990 Form. The Wisconsin Advertising Project, the foremost academic research program assessing the political content of television ads, concluded that 72.9 percent of the group's television activity was intended to influence the outcomes of elections, as opposed to issue-advocacy work. Based on these two figures, Public Citizen estimates that USA spent \$13.6 million on ads intended to influence elections in 2002.

⁴² Tom Hamburger, "Drug Lobby Wins Big With Massive Spending Against Medicare Plan," *Wall Street Journal*, Nov. 9, 2000. A report that the U.S. Chamber of Commerce received \$10 million from drug companies to run advertisements supporting Republican candidates.

⁴³ No spending data is available for the three contests in which the Chamber was known to have advertised in 2002. The group also made grants to the America Taxpayers Alliance, which carried out election activities, and reportedly made grants to others.

⁴⁴ "Group Targets Ads Against Daschle," *Houston Chronicle*, Aug. 20, 2004.

⁴⁵ "An Oldie but a Goodie," *The Hotline*, April 26, 2004.

⁴⁶ Meg Kinnard, "AFL-CIO: Bush's Priorities Are Too Spacey," *National Journal*, May 14, 2004.

⁴⁷ "Dispatches from the Democratic National Convention," *AFX International Focus*, July 27, 2004.

⁴⁸ Meg Kinnard, "AFV: Bush Flip-Flops on Patients' Rights," *National Journal*, July 23, 2004.

⁴⁹ American Family Voices Web site. Available at www.americanfamilyvoices.org. Viewed on May 27, 2004.

⁵⁰ Meg Kinnard, "Tenenbaum Makes Her On-Air Debut," *National Journal*, August 3, 2004.

⁵¹ Gwen Glazier, "Knowles Touts Drug Plan, Takes Hit on Jobs," *National Journal*, July 7, 2004.

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to include, at the very least, any advertisement that depicts a candidate within 60 days of a general election or 30 days of a primary election or convention and targets that candidate's constituency. *McConnell v. FEC*, 540 U.S. 93 (2003).

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²⁴⁹ *FEC v. MCFL*, 479 U.S. at 254-255 (1986).

²⁵⁰ *FEC v. MCFL*, 479 U.S. at 252-253 (1986).

²⁵¹ See, for example, FEC staff discussion of the regulation and the *MCFL* decision in 60 Federal Register 35292, 35303 (1995).

²⁵² Lloyd Mayer, tax attorney with the firm Caplin & Drysdale, interview with Public Citizen Legislative Representative Craig Holman, Aug. 5, 2004.

²⁵³ U.S. General Accounting Office, "Political organizations: Data Disclosure and IRS's Oversight of Organizations Should Be Improved," report to the Hon. Bill Thomas, House Committee on Ways and Means at 46 (2002).

²⁵⁴ U.S. General Accounting Office, "Political organizations: Data Disclosure and IRS's Oversight of Organizations Should Be Improved," report to the Hon. Bill Thomas, House Committee on Ways and Means at 48 (2002).