

Big PhRMA's Stealth PACs

**How the Drug Industry Uses 501(c) Non-Profit Groups
to Influence Elections**



**Congress Watch
September 2004**

Acknowledgments

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Data on election activities used in this report were drawn extensively from work of Dr. David B. Magleby, Director of the Center for the Study of Elections and Democracy, Brigham Young University, and of Dr. Ken Goldstein, Director of the Wisconsin Advertising Project, University of Wisconsin-Madison.

Acknowledgment of Financial Support

Public Citizen deeply thanks the Schumann Center for Media and Democracy for its generous support, without which the *New Stealth PACs* project would not have been possible. Public Citizen also thanks the Carnegie Corporation of New York for a grant that enabled us to complete the first two New Stealth PACs reports and the Web site.

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 five 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

The messages and the money tell a story.

When President Bush signed the Medicare prescription drug bill in 2003, he singled out for praise three non-profit organizations:

“Jim Martin, the president of 60 Plus Association, worked hard. Charlie Jarvis, the chairman and CEO of United Seniors Association, worked hard,” Bush said. And after interspersing praise for Mike Maves, CEO of the American Medical Association, he continued, “Mary Martin, the chairman of the board of the Seniors Coalition, worked hard.”¹

Those three groups, plus a new group on the scene in 2002 called America 21, all claim to speak for seniors or evangelical Christians. In 2002, the groups sponsored broadcasts and mailings that mirrored one another’s – and focused heavily on the Medicare prescription drug bill, which was the top legislative concern for the Pharmaceutical Research and Manufacturers of America (PhRMA). In contest after contest, messages disseminated by the groups praised candidates who supported the Medicare prescription drug benefit or criticized their opponents.

These four groups were able to raise tens of millions of dollars and pay for numerous election ads and direct mail pieces because they each had a large donor that provided the bulk of their money. And the known relationships of three of the groups with PhRMA together with the parallelism of all four groups efforts in 2002 make it seem likely, if not absolutely certain, that the giant drug industry association was the mega-funder for each group.

But the tax code makes it easy for organizations to keep this kind of relationship secret.

Organizations registered within Section 501(c)(4), Section 501(c)(5) and Section 501(c)(6) of the Internal Revenue Code – social welfare organizations, labor unions and business leagues, respectively – are allowed to take unlimited amounts of money from any donor without ever having to publicly divulge the source of the funds.

These sections of the tax code were never envisioned as havens for groups whose main pursuits are electoral activity. Groups claiming these tax statuses are permitted to make *substantial* political expenditures, which the IRS defines as expenditures intended to influence the outcomes of elections, but they are prohibited from making electoral activities their *primary purpose*.

Although 501(c) non-profit groups are required to disclose the extent of their political expenditures to the IRS, the four profiled in this study reported zero political expenditures in 2002 – despite contrary evidence revealed by Public Citizen’s analysis of data collected from their annual tax forms and Web sites, press reports and academic papers on independent political groups.

What is known – and unknown – about their finances, combined with the groups’ extensive election activities and their apparent willingness to do PhRMA’s bidding, marks these four 501(c) organizations as “PhRMA Stealth PACs.” This Public Citizen report is based on information available in Public Citizen’s searchable *New Stealth PACs* database, available online: www.stealthpacs.org.

Key findings of this report:

- **In 2002, PhRMA appears to have channeled as much as \$41 million to its four Stealth PACs, according to records filed with the IRS.** Money from the drug industry’s association enabled United Seniors Association (USA), 60 Plus Association, the Seniors Coalition and America 21 to broadcast ads and send direct mail in 39 U.S. Senate and House contests that year, most of them highly competitive. These ads consistently supported candidates friendly to PhRMA’s agenda and criticized those considered unfriendly.
- **Voters had no way of knowing that campaign messages were underwritten with the drug industry’s money.** PhRMA was able to lurk in the background while exerting substantial influence through the 501(c) non-profit groups that acted as PhRMA’s Stealth PACs. As 501(c) groups, they face few public disclosure requirements, and the IRS rarely takes enforcement action against 501(c) groups that file false reports or violate rules governing their election activities.
- **PhRMA got what it wanted: A Medicare prescription drug benefit.** The 2003 Medicare prescription drug bill, pushed by Republican leaders in both houses of Congress and signed into law by President Bush, greatly expanded the number of paying customers for brand-name prescription drugs, prohibited the government from negotiating discount prices from pharmaceutical companies and failed to allow for the reimportation of much lower cost drugs from Canada and other countries. To get this bill passed, the drug industry bankrolled at least a \$108.6 million lobbying effort that employed 824 lobbyists, as documented in a June 2004 Public Citizen report, *The Medicare Drug War*. And PhRMA appears to have largely funded efforts by its Stealth PACs to elect friendly Senate and House candidates – almost all of them Republicans.
- **PhRMA Stealth PACs show similar funding patterns.** Amounts the four groups received from their largest single donors in 2002 totaled \$40.7 million – or 75.8 percent of their combined revenues. The degree to which the largest single donor dominated each group’s 2002 revenue ranged from 47.6 percent for the Seniors Coalition to 98.3 percent for America 21. Public Citizen was able to learn this by obtaining redacted copies of each group’s IRS Form 990 Schedule B.
- **Revenues and expenditures for these PhRMA Stealth PACs have swollen during election years.** Spending by these 501(c) non-profits has not been steady from year to year. Instead it has peaked during election years.

- **In 2002, USA and 60 Plus Association each received contributions that PhRMA dubbed “unrestricted educational grants.”** PhRMA acknowledged furnishing USA with an “unrestricted educational grant” in 2002, and a news report said 60 Plus received the same sort of grant. 60 Plus is also known to have received \$275,000 from PhRMA and brand name drug companies in 2001. United Seniors Association received \$1.5 million from PhRMA in 2001, according to its filing with the IRS obtained by Public Citizen.
- **USA received \$20.1 million from a single donor – presumably PhRMA – in 2002.** Although USA claims to be a membership organization representing 1.5 million senior citizens, its IRS filing reveals that a single source actually provided the preponderance of its 2002 income: \$20.1 million, or 79.1 percent of its total \$25.4 million in revenue. Public Citizen estimates that in 2002 USA spent \$13.6 million to bolster six U.S. Senate and 19 House candidates.
- **USA has been active in at least 17 or more House races in 2004.** Media and field reports show that USA has been running election-related advertising in 17 different House races in the 2004 general elections. Media reports from two congressional districts alone suggest that the group spent nearly \$500,000 in just those two contests alone. It is impossible to judge if PhRMA provided money for these ads, but historical evidence suggests PhRMA’s hand is behind the work.
- **Seniors Coalition received \$6 million from a single donor – presumably PhRMA – in 2002 and sent direct mail in 11 races.** In 2002, the Seniors Coalition reported on its IRS Form 990 Schedule B that it received a contribution of \$6 million – nearly 48 percent of that year’s revenue – from a single person or organization. That year, the group disseminated communications in at least 11 political contests, sending direct mailers praising candidates for favoring the Medicare prescription drug bill. Although the identity of the \$6 million donor was not disclosed, the Seniors Coalition had received a \$2.1 million gift from PhRMA in 2000.
- **60 Plus Association got 91 percent of its 2002 revenue from a single donor – presumably PhRMA.** Almost \$11 million of 60 Plus’ \$12 million in revenue (91.4 percent) came from a single source in 2002. That allowed 60 Plus to increase its revenue more than sixfold from its \$1.9 million in 2001 revenue. During the lead-up to the 2002 elections, 60 Plus distributed direct mail or other election-oriented communications in at least 24 political contests, and each prominently praised or criticized a candidate on prescription drug issues.
- **America 21’s funding was increased dramatically in 2002 by a \$3.65 million gift – presumably from PhRMA.** After failing to raise even the \$25,000 in revenue that would have required an IRS disclosure for 2000 or 2001, America 21 reported \$3.7 million in revenue in 2002 – including \$3.65 million (98.3 percent) from a single donor. The group proceeded to distribute direct mail in at least 20 political contests in 2002. Most, if not all, of the mailings prominently mentioned a candidate’s support for the Medicare prescription drug bill.

- **PhRMA Stealth PACs issued similar messages.** The content and language of the ads aired or distributed by the four groups were often similar. Such similarity is one standard used under election law to determine “coordination.” Themes and phrases – and in one case the misspelling of a candidate’s name in three groups’ mailers – often were repeated in the election messages distributed by one or more of the PhRMA Stealth PACs.
- **The overlap in election messages was measurable.** Of the election messages the four PhRMA Stealth PACs delivered in at least 39 different races, 63.1 percent of them talked about a candidate’s support for a Medicare prescription drug benefit that was promoted by PhRMA, President Bush and Republican leaders in Congress. This compares with only 19.2 percent of the messages that talked about strengthening or protecting Social Security or 3.8 percent of the messages that mentioned the estate tax.
- **Election activities by PhRMA Stealth PACs tilted strongly toward the GOP.** Election communications done by all four of the PhRMA Stealth PACs in 2002 reflected consistent partisan leanings, taking pro-Republican or anti-Democratic positions in 92.3 percent of the races in which they advertised or sent direct mail.
- **PhRMA Stealth PACs worked on many of the same races** Election activities of all four groups were narrowly focused and often overlapped. In 24 of the 39 races – 61.5 percent – where Public Citizen found these groups to be active, a candidate who received the support of one PhRMA Stealth PAC also received support from at least one of the other groups. And in five of seven Senate races – 71.4 percent – candidates who received support from one PhRMA Stealth PAC also received support from at least one of the other three groups. And no PhRMA Stealth PAC took a position opposing one of the other groups in any of these House and Senate races.
- **PhRMA Stealth PACs focused on closely contested races.** In the 39 House or Senate contests in 2002 where Public Citizen learned of election-oriented activities by the PhRMA Stealth PACs, 76.9 percent (30) were classified as “competitive” contests by the *Cook Political Report*. In contrast, the *Cook Political Report* rated only 20.6 percent of all the Senate races and only 3.7 percent of all the House races as toss-ups in 2002.
- **PhRMA and its Stealth PACs may have violated tax laws.** Public Citizen believes that in 2002 the PhRMA Stealth PACs may have engaged in enough activities intended to influence elections to raise the question of whether they violated the prohibition against allowing political work to be their *primary* activity. Further, each of the four PhRMA Stealth PACs declared zero political expenditures to the IRS, claims that do not seem plausible given the content of the groups’ television commercials and direct mailings, the timing of their messages, and the groups’ decisions to direct the messages disproportionately to voters who lived in particularly competitive political districts. Additionally, PhRMA failed to disclose its grants to USA and 60 Plus, to which it is known to have given money in 2002. And if PhRMA is the source of the other large contributions to the Seniors Coalition and America 21 identified in this report, it again failed to disclose these grants.

Introduction: Tax Status Allows PhRMA and Its Stealth PACs to Shield Their Funders

Most of the methods used by large corporate or special interest donors to influence elections are regulated by either the Federal Election Commission (FEC) or the Internal Revenue Service (IRS). Some methods have been closed or narrowed in recent years – and most require public disclosure of the source of large contributions. For example:

- Under the Bipartisan Campaign Reform Act (BCRA), contributions of soft money (large, unrestricted donations, from corporations, unions and individuals) to national parties and congressional leadership PACs are now prohibited.
- Section 527 groups, independent organizations registered under the section of the tax code reserved for political groups, are allowed to accept soft-money contributions. But these non-profit groups, once known as “Stealth PACs,” are required by federal law to disclose and itemize donors of \$200 or more, and disclose total revenue and itemize expenditures of \$500 or more on a quarterly basis to the IRS during election years.² Even more frequent reporting to the IRS is required in the last few months before a general election.

The increased disclosure requirements placed upon Section 527 groups, leave Section 501(c)(4), Section 501(c)(5) and Section 501(c)(6) of the tax code as the last remaining havens for special interests that want to influence elections while keeping their roles secret.

Those organizations registered within these 501(c) categories – social welfare organizations, labor unions and business leagues, respectively – are allowed to take unlimited amounts of money from any donor (even those from foreign interests) without ever having to publicly divulge the source of the funds.³ They are what Public Citizen terms the New Stealth PACs.

This section of the tax code was never envisioned as a vehicle for groups that make electoral activities their main pursuit. Organizations that are granted 501(c) status by the IRS, with the exception of 501(c)(3)s, are permitted to make *substantial* political expenditures, which the IRS defines as expenditures intended to influence the outcomes of elections, but they are prohibited from making electoral activities their *primary* purpose.

Tax Returns Offer Glimpse s into 501(c) Groups’ Political Funding and Spending

The four groups that Public Citizen suspects were heavily funded by PhRMA in 2002 – United Seniors Association, 60 Plus Association, the Seniors Coalition and America 21 – are among 30 501(c) groups studied by Public Citizen that have engaged in substantial election activities since 2000. [For profiles of all the groups, see the *New Stealth PACs* database, available online at www.stealthpacs.org]

While 501(c) groups face only minimal disclosure requirements regarding their electioneering, they are required to make their annual tax returns (IRS 990 forms) available to the public. This

form provides certain information – aside from aggregate revenue and expenditure figures – that could potentially provide minimal insight into groups’ activities :

- Groups must disclose the extent of their “political” expenditures, which the IRS defines as those intended to influence elections. However, most groups, including the four profiled in this study, report zero political expenditures despite evidence to the contrary uncovered by Public Citizen’s analysis of data collected from the groups’ annual tax forms and Web sites, press reports and academic papers on activities of independent political groups.
- While groups are not required to disclose the identity of their contributors, the aggregate amounts given by large contributors are publicly available through the IRS. This data enabled Public Citizen to conclude that each of the four seniors groups, which we call the PhRMA Stealth PACs, had a large donor that provided most of their money.
- Groups must disclose grants made to other organizations. But Public Citizen learned that PhRMA, a 501(c)(6) group, made grants to electioneering non-profit groups in 2002 but did not report them on its IRS 990 forms.

While the absence of a requirement for 501(c) organizations to disclose the identities of their contributors precludes Public Citizen from making a definitive finding that PhRMA provided the four groups with \$41 million, this could be determined if PhRMA itself had abided by its disclosure requirements.

What is known for that year is that these PhRMA Stealth PACs, all claiming to speak for seniors or evangelical Christians, engaged in extensive electioneering. These four non-profit groups sponsored election messages through broadcasts and mailings that mirrored one another and praised candidates specifically for supporting PhRMA’s top legislative concern – the Medicare prescription drug bill.

PhRMA's Stealth PACs Show Similar Funding Patterns

A dearth of reporting requirements imposed on Section 501(c) organizations prevents Public Citizen from conclusively determining whether PhRMA provided money to all four Stealth PACs in 2002 and, if so, how much. However, Public Citizen was able to gain insight into the groups' funding by requesting from the IRS copies of the groups' tax forms with contributors names redacted.

This much is known:

- **The amounts the four groups received from their largest single donors in 2002 totaled \$40.7 million – or 75.8 percent of their combined revenues.** Although they present themselves as advocates on issues affecting older Americans, the four PhRMA Stealth PACs do not rely on large-scale member donations or dues but on at least one multi-million dollar contributor. Public Citizen was able to learn this by obtaining redacted copies of each group's form 990 Schedule B, in which it must disclose to the IRS the names of all contributors who gave \$5,000 or more and the amount they gave. While the names are not a matter of public record, the amounts are. The degree to which the largest single donor dominated each group's 2002 revenue ranged from 47.6 percent (Seniors Coalition) to 98.3 percent (America 21). [See Figure 1]
- **Revenues and expenditures for the PhRMA Stealth PACs have swollen during election years.** Spending by these 501(c) non-profits has not been steady from year to year – which might reflect ongoing issue-related campaigns – but has peaked in years when they have been paying for ads and mailings that seemed aimed at influencing federal races.
- **Two of the four groups (USA and 60 Plus) received contributions from PhRMA in 2002 that the trade association dubbed “unrestricted educational grants.”⁴**
- **Three of the four groups (USA, 60 Plus and the Seniors Coalition) had received money from PhRMA prior to 2002.⁵**

United Seniors Association

Although USA claims to be a membership organization representing 1.5 million senior citizens, its IRS filing reveals that a single source actually provided the preponderance of its 2002 income: \$20.1 million, or 79.1 percent of its total revenue.⁶

PhRMA acknowledged furnishing USA with an “unrestricted educational grant” during 2002,⁷ 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.”⁸ Along with its IRS filing, this information 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.⁹ Moreover, Public Citizen obtained an unredacted copy of USA's 2001 990 form Schedule B, which enumerates donors who gave \$5,000 or more. That year, USA reported receiving \$1.5 million from PhRMA.¹⁰ (USA was not required to disclose the name of the donor but did in this instance.)

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.¹¹ Public Citizen estimates that USA spent \$13.6 million of the \$18.6 million to bolster six U.S. Senate and 19 House candidates.¹²

**Figure 1:
Revenue and Expenses for PhRMA's Stealth PACs – 2000-2003**

Year	Total Revenue	Total Expenses	No. of Contributors Giving \$5,000 or More	Sum of Revenue from Contributors Giving \$5,000 or More	Amount from Largest Single Contributor	Percentage of Overall Revenue from Largest Single Contributor
United Seniors Association						
2000	\$9,506,457	\$8,998,568	5	\$100,500	\$50,000	0.5%
2001	\$8,560,937	\$8,348,446	4	\$3,320,904	\$1,614,826	18.9%
2002	\$25,396,676	\$25,451,427	5	\$20,155,058	\$20,100,000	79.1%
2003	\$26,599,389	\$26,490,329	N/A	N/A	N/A	N/A
Seniors Coalition						
2000	\$13,382,083	\$13,114,226	9	\$2,771,621	\$2,065,000	15.4%
2001	\$7,555,254	\$7,768,580	6	\$520,112	\$184,112	2.4%
2002	\$12,567,306	\$11,850,463	9	\$6,556,544	\$5,982,638	47.6%
2003	\$6,154,275	\$6,578,706	N/A	N/A	N/A	N/A
60 Plus Association						
2000	\$2,022,654	\$1,927,250	7	\$585,000	\$300,000	14.8%
2001	\$1,875,423	\$1,922,223	12	\$1,671,430	\$529,592	28.2%
2002	\$12,027,390	\$12,084,581	9	\$11,304,933	\$10,992,933	91.4%
2003	N/A	N/A	N/A	N/A	N/A	N/A
America 21						
2000	N/A	N/A	N/A	N/A	N/A	N/A
2001	N/A	N/A	N/A	N/A	N/A	N/A
2002	\$3,714,651	\$3,684,260	4	\$3,710,000	\$3,650,000	98.3%
2003	N/A	N/A	N/A	N/A	N/A	N/A

Source: IRS Forms 990, as compiled in the *New Stealth PACs* database, a project of Public Citizen's Congress Watch, www.stealthpacs.org.

Seniors Coalition

This group reportedly received \$2.1 million from PhRMA in 2000, according to the *AARP Bulletin*.¹³ In 2002, the Seniors Coalition, which claims nearly 4 million members, reported on its Schedule B that it received a contribution of \$6 million from a single person or organization.¹⁴ That year, the Seniors Coalition disseminated communications in at least 11 political contests. The group's "cookie cutter" direct mailer praised candidates for favoring a Medicare prescription drug bill that PhRMA favored.¹⁵

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 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.

60 Plus Association

60 Plus Association claims to have 225,000 members, but its filings to the IRS show that in 2002, almost \$11 million of its \$12 million in revenue (91.4 percent) came from a single source.¹⁶ That mega-donor was responsible for 60 Plus increasing its revenue more than sixfold, from its \$1.9 million in 2001 revenue. Other than the \$11 million contributor, 60 Plus' next largest contributor in 2002 gave \$220,000.¹⁷

In 2001, 60 Plus received \$275,000 from PhRMA, as well as unspecified amounts from drug giants Pfizer, Merck and Wyeth-Ayerst.¹⁸

60 Plus, like USA, received an unrestricted educational grant from PhRMA in 2002.¹⁹ 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,²⁰ 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 the fact 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. 60 Plus President James Martin did not respond to an e-mail inquiry that asked if PhRMA was the donor that gave the \$11 million contribution.²¹

America 21

After failing to raise the necessary \$25,000 in revenue to require filing of a 990 form in either 2000 or 2001,²² America 21 reported \$3.7 million in revenue in 2002, including \$3.65 million, or 98.3 percent from a single donor.²³

The group proceeded to distribute direct mail in at least 20 political contests in 2002.²⁴ 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 Medicare 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.”²⁵)

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,²⁶ but in their letters praising Republican congressional candidate Bob Beauprez of Colorado each group misspelled his last name as “Beuprez.”²⁷

Because America 21 featured PhRMA’s issues prominently in its direct mailers and appeared to coordinate 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.

PhRMA's Stealth PACs Issued Similar Messages

The four PhRMA Stealth PACs appeared to work together in delivering one message with overwhelming consistency: support for a Medicare prescription drug benefit that was promoted by PhRMA, President Bush and Republican leaders in Congress.

Although nothing in the bill guaranteed lower drug costs for senior citizens, it did ensure an infusion of money into drug company coffers, while avoiding any limits on drug prices. The bill was so important to drug manufacturers that the industry employed 824 lobbyists and spent \$108.6 million on lobbying to make sure its version of a bill became law in 2003, as detailed in Public Citizen's June 2004 report, *The Medicare Drug War*, available online at: http://www.citizen.org/documents/Medicare_Drug_War%20_Report_2004.pdf

The four PhRMA Stealth PACs aided the trade association's cause by helping to tilt key Senate and House races toward candidates considered friendly to PhRMA's agenda. The teamwork of these PhRMA Stealth PACs' campaigns can be shown both through comparisons of language the groups used in their messages and through an analysis of the issues addressed by the four groups' messages.²⁸ [See Figure 2]

- **Overlap in election messages was measurable.** The Medicare prescription drug benefit was the dominant issue by far in messages disseminated by the four PhRMA Stealth PACs in 39 different political contests in 2002. Of all identifiable issues, 63.1 percent of the messages talked about a candidate's support for the Medicare prescription drug benefit. This compares with only 19.2 percent of the messages that talked about strengthening or protecting Social Security – a staple of campaign ads aimed at senior citizens – or 3.8 percent of the messages that mentioned the estate tax. [See Figure 2]

USA, the PhRMA Stealth PAC that was most active in the 2002 elections, had an even greater tendency to talk about the Medicare prescription drug benefit. USA, which was active in 25 races, mentioned the Medicare drug provision in 90.2 percent of its messages.

- **Messages often used similar language.** The content and language of the communications distributed by several groups are similar. Such similarity is one standard used under election law to determine “coordination.”²⁹

For example, a direct mail piece distributed by 60 Plus Association said:

*“While the liberals were selling another scheme for government run health care... Congressman Chip Pickering was passing a Medicare prescription drug plan that works for America's seniors.”*³⁰

In the same race, the Seniors Coalition sent out direct mail that said:

*“While the liberals were talking, Congressman Chip Pickering was helping to pass the first comprehensive Medicare prescription drug benefit.”*³¹

In another race, 60 Plus, America 21 and the Seniors Coalition all sent direct mail in Colorado's fiercely contested 7th congressional district race pitting Bob Beauprez (R) against Mike Feeley (D). The mailings each praised Beauprez's stance on a proposed Medicare prescription drug benefit and misspelled the Republican's name identically as "Beuprez." [See Appendix]

**Figure 2:
Election Messages by PhRMA's Stealth PACS – 2002**

Issues Addressed *	United Seniors Association (% of group's messages)	Seniors Coalition (% of group's messages)	60 Plus Association (% of group's messages)	America 21 (% of group's messages)	Percent of messages by all 4 groups
Medicare Drug Benefit	90.2%	66.7%	54.3%	43.2%	63.1%
Protect Social Security		16.7%	17.4%	43.2%	19.2%
Control Crime			13.0%		4.6%
General message of support		16.7%	10.9%		4.6%
Eliminate Estate Tax				13.5%	3.8%
Cut Taxes	7.3%				2.3%
Ban Drug Re-Imports			4.3%		1.5%
Curb Malpractice Suits	2.4%				0.8%

Source: Public Citizen analysis of data (from organizations' tax filings and Web sites, media reports, academic research and interviews) compiled in the *New Stealth PACs* database, a project of Public Citizen's Congress Watch, www.stealthpacs.org/.

* Note: Whenever available, text of the advertising or direct mail was examined to determine content of the messages. In some cases, specific information included in media reports was used. If an ad or mailing mentioned more than one issue, both issues were included in this tally. When the content of the ad or mailing was unknown, the message was not represented in this tally.

- **In at least one race, direct mail from 60 Plus Association paralleled a Republican National Committee mailer.** Direct mail pieces sent by 60 Plus Association and the Republican National Committee (RNC) raise the prospect that these two entities may have worked together. While the evidence may not establish the sort of blatant coordination that would violate federal election law, it suggests at least that the groups consciously sought to send consistent messages to voters. [See Appendix]

60 Plus sent out a mailer that declared:

"America needs leadership in Washington on prescription drug coverage, Medicare and Social Security. Congressman Robin Hayes is providing that leadership earning him the Guardian of Seniors Award."

The RNC sent out a mailer that dovetailed with 60 Plus' message, and even included a photograph of Hayes with 60 Plus President Jim Martin. Where the 60 Plus bestowed its "Guardian of Seniors" award on Hayes, the RNC wrote:

"When it comes to being a 'Guardian of Seniors,' seniors have no more effective voice in Congress than Robin Hayes."

Public Citizen did not obtain RNC mailers from other 2002 races and could not determine if similar coincidences were apparent in other campaigns.

PhRMA's Stealth PACs Worked on Many of the Same Races

Election communications by all four groups were narrowly focused and often overlapped. It would be difficult for the PhRMA Stealth PACs to claim that they limited themselves in 2002 to issue-oriented campaigns aimed at mobilizing public opinion on behalf of their memberships. In fact, the groups primarily paid attention to only a small segment of the United States: those places where there were tight contests for the U.S. Senate or House. [See Figure 3]

- **Election activities by PhRMA Stealth PACs tilted strongly toward the GOP.** Election communications by all four of the PhRMA Stealth PACs in 2002 reflected consistent partisan leanings, taking pro-Republican or anti-Democratic positions in 92.3 percent of the races in which they advertised or mailed voters. USA attempted to help GOP candidates in 88 percent of the House or Senate races in which it advertised. Meanwhile, the Seniors Coalition, 60 Plus and America 21 supported Republicans 100 percent of the time.
- **PhRMA Stealth PACs concentrated on competitive election contests.** In the 39 House or Senate contests in 2002 where Public Citizen learned of election-oriented activities by the PhRMA Stealth PACs, 76.9 percent were classified as “competitive” contests by the *Cook Political Report*. In contrast, the *Cook Political Report* rated only 20.6 percent of all the Senate races and only 3.7 percent of all the House races as toss-ups in 2002.³²

Of the seven Senate races where Public Citizen learned of election-oriented activities by the PhRMA Stealth PACs, six – or 85.7 percent – were classified as competitive very late in the election cycle (and the seventh race, in Iowa, had been considered competitive earlier in the election cycle.) And of the 32 House races where Public Citizen learned of election-oriented activities by these groups, 22 – or 68.8 percent – were classified as competitive.

- **PhRMA Stealth PACs often supported the same candidates.** In 24 of the 39 races – 61.5 percent – where Public Citizen found these groups to be active, a candidate who received the support of one PhRMA Stealth PAC also received support from at least one of the other groups. There was not a single instance in which one PhRMA Stealth PAC took a position opposing the others in any of these House and Senate races.
 - Five of the seven Senate candidates who received support from one PhRMA Stealth PAC also received support from at least one of the other three groups.
 - Two Senate candidates received election help from all four PhRMA Stealth PACs: Rep. John Sununu (R-N.H.) and former Rep. Jim Talent (R-Mo.) And four House candidates received help from all four groups. One was Rep. Nancy Johnson (R-Conn.), chair of the Health Subcommittee in the House, which played a leading role in shaping the Medicare prescription drug law. The other three were Rep. Charles “Chip” Pickering Jr. (R-Miss.), Rep. Heather Wilson (R-N.M.) and Rep. George Gekas, an unsuccessful Republican incumbent in Pennsylvania. All six of these contests were rated as competitive races.

**Figure 3:
Election Contests in Which PhRMA's Stealth PACs Were Active – 2002**

Contests	<input checked="" type="checkbox"/> Indicates competitive race *	United Seniors Association	Seniors Coalition	60 Plus Association	America 21
Ariz. / House	<input checked="" type="checkbox"/>		Pro: Renzi (R)	Pro: Renzi (R)	Pro: Renzi (R)
Ark. / Senate	<input checked="" type="checkbox"/>	Pro: Hutchinson (R)	Pro: Hutchinson (R)		Pro: Hutchinson (R)
Ark. / House	<input checked="" type="checkbox"/>			Pro: Dickey (R)	Pro: Dickey (R)
Colo. / Senate	<input checked="" type="checkbox"/>	Pro: Allard (R)		Pro: Allard (R)	
Colo. / House	<input checked="" type="checkbox"/>		Pro: Beauprez (R)	Pro: Beauprez (R)	Pro: Beauprez (R)
Conn. / House	<input checked="" type="checkbox"/>	Pro: Simmons (R)		Pro: Simmons (R)	
Conn. / House	<input checked="" type="checkbox"/>	Pro: Johnson (R)	Pro: Johnson (R)	Pro: Johnson (R)	Pro: Johnson (R)
Fla. / House	<input checked="" type="checkbox"/>	Pro: Shaw (R)			
Fla. / House	<input checked="" type="checkbox"/>			<i>Anti: Thurman</i> (D)	
Ill. / House	<input checked="" type="checkbox"/>	Pro: Shimkus (R)			
Ind. / House	<input checked="" type="checkbox"/>		Pro: Chocola (R)	Pro: Chocola (R)	Pro: Chocola (R)
Iowa / Senate				Pro: Ganske (R)	
Iowa / House	<input checked="" type="checkbox"/>			Pro: Leach (R)	Pro: Leach (R)
Iowa / House	<input checked="" type="checkbox"/>	Pro: Nussle (R)		Pro: Nussle (R)	Pro: Nussle (R)
Iowa / House		Pro: Latham (R)		Pro: Latham (R)	Pro: Latham (R)
Kan. / House	<input checked="" type="checkbox"/>		<i>Anti: Moore</i> (D)		
Kan. / House				Pro: Tiahrt (R)	
Ky. / House	<input checked="" type="checkbox"/>	Pro: Northrup (R)			
Md. / House	<input checked="" type="checkbox"/>			Pro: Morella (R)	
Mich. / House		Pro: Knollenberg (R)			
Minn. / Senate	<input checked="" type="checkbox"/>	Pro: Coleman (R) <i>Anti: Wellstone</i> (D)		Pro: Coleman (R)	Pro: Coleman (R) <i>Anti: Wellstone</i> (D)
Minn. / House		Pro: Peterson (D)			
Minn. / House	<input checked="" type="checkbox"/>				Pro: Kline (R)
Miss. / House	<input checked="" type="checkbox"/>	Pro: Pickering (R)	Pro: Pickering (R)	Pro: Pickering (R)	Pro: Pickering (R)
Mo. / Senate	<input checked="" type="checkbox"/>	Pro: Talent (R) <i>Anti: Carnahan</i> (D)	Pro: Talent (R)	Pro: Talent (R)	Pro: Talent (R)
Mo. / House				Pro: Blunt (R)	
N.H. / Senate	<input checked="" type="checkbox"/>	Pro: Sununu (R)	Pro: Sununu (R)	Pro: Sununu (R)	Pro: Sununu (R)
N.H. / House	<input checked="" type="checkbox"/>	Pro: Bass (R)			
N.H. / House	<input checked="" type="checkbox"/>			Pro: Bradley (R)	Pro: Bradley (R)
N.M. / House	<input checked="" type="checkbox"/>	Pro: Wilson (R)	Pro: Wilson (R)	Pro: Wilson (R)	Pro: Wilson (R)
N.M. / House	<input checked="" type="checkbox"/>			Pro: Pearce (R)	Pro: Pearce (R)
N.Y. / House		Pro: Israel (D)			
N.C. / House	<input checked="" type="checkbox"/>	Pro: Hayes (R)		Pro: Hayes (R)	Pro: Hayes (R)
Pa. / House	<input checked="" type="checkbox"/>	Pro: Toomey (R)			
Pa. / House	<input checked="" type="checkbox"/>	Pro: Gekas (R)	Pro: Gekas (R)	Pro: Gekas (R)	Pro: Gekas (R)
S.D. / Senate	<input checked="" type="checkbox"/>	<i>Anti: Johnson</i> (D)			

Contests	<input checked="" type="checkbox"/> Indicates competitive race *	United Seniors Association	Seniors Coalition	60 Plus Association	America 21
Texas / House		Pro: Bonilla (R)			
Texas / House		Pro: Hall (D)			
W. Va. / House	<input checked="" type="checkbox"/>	Pro: Capito (R)			
TOTALS:	30 of 39 races competitive (76.9%)	25 Contests Positions: 21 Pro-Republican 0 Anti-Republican 3 Pro-Democrat 3 Anti-Democrat	11 Contests Positions: 10 Pro-Republican 0 Anti-Republican 0 Pro-Democrat 1 Anti-Democrat	24 Contests Positions: 23 Pro-Republican 0 Anti-Republican 0 Pro-Democrat 1 Anti-Democrat	19 Contests Positions: 19 Pro-Republican 0 Anti-Republican 0 Pro-Democrat 1 Anti-Democrat

Source: Public Citizen analysis of data (from organizations' tax filings and Web sites, media reports, academic research and interviews) compiled in the *New Stealth PACs* database, a project of Public Citizen's Congress Watch, www.stealthpacs.org.

* Note: Competitive races were those rated by analyst Charlie Cook, who publishes the *Cook Political Report*, as either a "toss up" or a race that was "leaning" but not "likely" for one candidate. Cook rated the Wellstone-Coleman race in Minnesota competitive, but withdrew his rating after Sen. Paul Wellstone's death. Cook's ratings were from October 2002. More races had probably been rated as competitive earlier in the election cycle when the PhRMA Stealth PACs began disseminating their messages.

PhRMA and Its Stealth PACs May Have Violated Tax Laws

Organizations that are granted 501(c)(4), 501(c)(5) or 501(c)(6) status by the IRS are permitted to make *substantial* political expenditures, which the IRS defines as expenditures intended to influence the outcomes of elections, but they are prohibited from making electoral activities their *primary* purpose.³³

They are also required to disclose the overall amount of their political expenditures. Under some circumstances, 501(c) groups are required to pay taxes, at the highest corporate rate, on their total political expenditures or their total investment income, whichever is less.³⁴ Section 501(c) groups also must disclose grants they make to other organizations.

Public Citizen believes that the PhRMA Stealth PACs and their benefactor may have violated IRS rules in 2002. Specifically:

- The four PhRMA Stealth PACs may have engaged in enough activities intended to influence elections to raise the question of whether they violated the prohibition against allowing political work to be their primary activity.
- Each of the four PhRMA Stealth PACs declared zero political expenditures to the IRS, claiming that none of their 2002 communications was intended to influence elections. These claims do not seem plausible given the content of the groups' television commercials and direct mailings, the timing of their messages, and the groups' decisions to direct the messages disproportionately to voters who lived in particularly competitive political districts.
- PhRMA failed to disclose its grants to USA and 60 Plus, to which it is known to have given money in 2002. The same would be true if PhRMA was the source of the other large contributions to the Seniors Coalition and America 21 identified in this report.

United Seniors Association

USA disseminated television or radio advertisements that were judged by reviewers at the Wisconsin Advertising Project to be intended to influence elections (which likely would make them political expenditures under the IRS standard) in at least 25 congressional contests in 2002.³⁵ 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 estimates that USA spent about \$13.6 million on political ads in 2002.³⁶ Such a figure would represent more than 53 percent of the group's \$25.5 million in expenditures that year. USA reported zero political expenditures in its 2002 filing with the IRS.³⁷

Seniors Coalition

This group distributed direct mail communications mentioning candidates in at least 11 congressional contests in 2002.³⁸ 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." Other large items reported by the group for 2002 included \$446,880 for "advertising & promotion" and nearly \$2.9 million for telemarketing.³⁹ The Seniors Coalition's total expenditures in 2002 were slightly under \$11.9 million. If the expenditures listed above were for activities that sought to influence elections, it would mean the Seniors Coalition devoted more than half of its resources – \$6.7 million – to those pursuits. The Seniors Coalition reported zero political expenditures in 2002.

60 Plus Association

In 2002, 60 Plus Association disseminated communications mentioning candidates by name in at least 24 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. Public Citizen obtained copies of a majority of the direct mail communications by 60 Plus that are cited in this report and determined that each was likely to satisfy the IRS test for a political expenditure.⁴⁰ 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 provided 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 total expenditures in that non-election year were only \$1.9 million.⁴¹

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."⁴² (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 19 congressional contests. Public Citizen obtained copies of a majority of the direct mail communications by America 21 that are cited in this report and determined that each was likely to satisfy the IRS test for a political expenditure.⁴³ Public Citizen concluded that the majority of America 21's efforts to engage citizens in the voting process were likely aimed at influencing the outcomes of elections.⁴⁴ America 21 reported zero political expenditures to the IRS in 2002.⁴⁵

PhRMA

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."⁴⁶

PhRMA, a Section 501(c)(6) group, told Public Citizen in 2002 that it had provided the United Seniors Association with an “unrestricted educational grant.”⁴⁷ PhRMA also reportedly provided the 60 Plus Association with a similar grant in 2002, according to the *Washington Post*.⁴⁸

PhRMA reported no grants on its 990 form in 2002.⁴⁹ Public Citizen placed several telephone calls to PhRMA’s press office and sent a detailed e-mail asking, among other things, why it declared no grants in 2002. PhRMA did not respond.⁵⁰

USA Has Been Active in at Least 17 House Contests in 2004

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 House contests so far in 2004. It has spent at least \$370,500 to help Rep. Jim Gerlach (R-Pa.) and at least \$141,000 to assist Rep. Phil Crane (R-Ill.).⁵¹ [See Figure 4]

Each USA message Public Citizen learned of was a “cookie cutter” ad praising members of Congress who voted for the Medicare prescription drug bill, which passed the House by five votes in November 2003 after the vote was held open nearly three hours. Though USA President Charles Jarvis claimed the ads were not intended to influence the outcomes of elections,⁵² his organization disproportionately chose competitive congressional districts in which to air its messages. Fifteen of the 17 members of Congress (88.2 percent) USA is known to have praised in its recent ad campaign were involved in re-election campaigns rated as at least “competitive” by the *Cook Political Report*. *Cook* has rated only 14 percent of all 2004 House races as “competitive,” or closer.

The ads appeared to cease in early September, according to anecdotal evidence provided to Public Citizen by news reporters and officials from campaigns in the targeted districts. The Bipartisan Campaign Reform Act prevents organizations from running commercials financed with corporate or union money that mention candidates’ names within 60 days of a general election.

It is impossible to tell whether the ads were financed by PhRMA because of the absence of disclosure requirements for 501(c) groups. However, the content of the ads and PhRMA’s history of funding USA suggests that PhRMA’s hand is behind the work.

**Figure 4:
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

Appendix

Direct mail items obtained by Public Citizen illustrate the way three PhRMA Stealth PACs, as well as the Republican National Committee, appeared to work together to influence at least two contests in 2002.

Those contests were Colorado's 7th congressional district contest, in which Republican Bob Beauprez defeated Democrat Mike Feely by less than one percentage point, and North Carolina's 8th congressional district contest, in which Republican Robin Hayes defeated Democrat Chris Kouri 54 percent to 45 percent.

Contents:

60 Plus Association: "Beuprez"	23
America 21: "Beuprez"	24
Seniors Coalition: "Beuprez"	25
60 Plus Association: Hayes	26
Republican National Committee: Hayes	27-28

60 Plus Association: “Beuprez”

The 60 Plus Association
1600 Wilson Blvd., Suite 500
Arlington, VA 22209

America needs leadership on
prescription drug coverage,
Medicare and Social Security.

Bob Beuprez's
record on these issues
earned him the Honorary
Guardian of Seniors Award.

THE 60 PLUS ASSOCIATION
HONORARY GUARDIAN
Bob Beuprez
2001

PAID
1-2-01
1-2-01
1-2-01

THE 60 PLUS ASSOCIATION
HONORARY GUARDIAN
Bob Beuprez
2001

PAID FOR BY: THE 60 PLUS ASSOCIATION

America 21: “Beuprez”

Seniors can count on Bob Beuprez to keep America's promises to the Greatest Generation.

They fought to protect America's values and safety both abroad and at home. For that, we owe the Greatest Generation more than a debt of gratitude. We owe it to them to make sure that their own personal security is not jeopardized.

Now more than ever it is critical that we keep the promise we made to them long ago.

Bob Beuprez understands the commitment our country has made to our seniors.

Call Bob Beuprez at 303-277-0500.

Thank him for standing up for the Greatest Generation with his commitment to seniors.

Bob Beuprez's Commitment to Seniors:

- Strengthen Social Security and protect the Social Security Trust Fund from liberals who want to spend it on wasteful big-government programs
- Improve Medicare and provide a real prescription drug benefit so seniors don't jeopardize their quality of life

Bob Beuprez: Leadership on Prescription Drug Coverage for America's Seniors

In the 40 years that have passed since Medicare was created, liberals have been doing a lot of talking about adding a prescription drug benefit. Unfortunately for America's seniors, that's all they did...talk.

"House passes prescription drug coverage..."

Not once in the 40 years that the liberals controlled Congress did they make good on their promise.

Finally, this year, the House of Representatives passed the first comprehensive prescription drug benefit under Medicare.

Bob Beuprez supports this legislation so that older Americans don't have to go without life-saving drugs.



Bob Beuprez is providing leadership, not talk, for America's seniors.

Bob Beuprez supports the House-passed Prescription Drug Plan that includes:

- A Guaranteed Drug Benefit under Medicare for All Seniors
- Reductions in Out of Pocket Costs Up to 70 Percent
- The Flexibility to Choose the Plan that Best Meets Your Needs
- Complete Protection Against Catastrophic Drug Costs

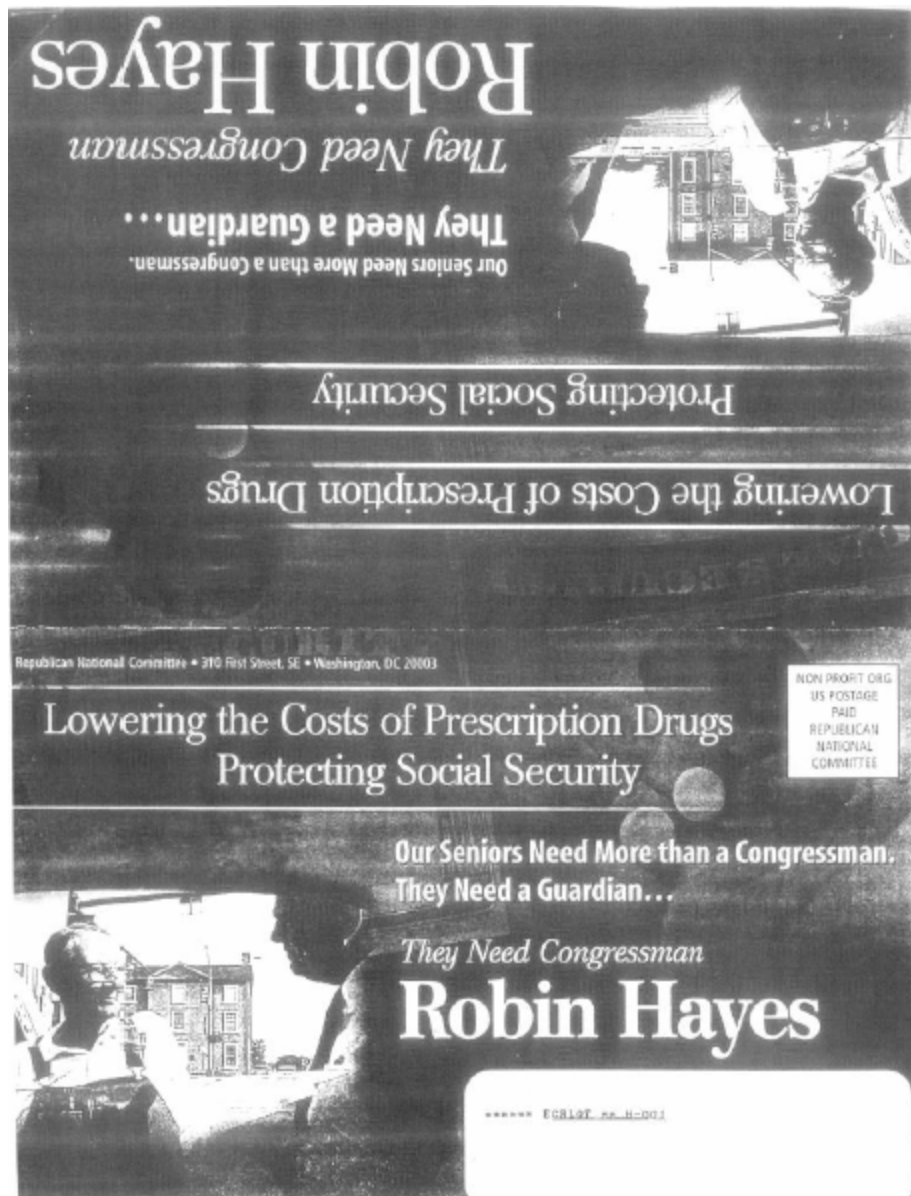
**Call Bob Beuprez at
303-277-0500.**

Thank him for standing up to the liberal talkers and supporting Medicare prescription drug coverage for seniors.

EXTRA! • EXTRA! • EXTRA! • EXTRA! • EXTRA! • EXTRA! • EXTRA! • EXTRA!

American
protection
priorities
on China
conflict
Congress
"Guns
Ca
Ro
at 70
looks
Than
Anne


Republican National Committee: Hayes



Republican National Committee: Hayes

Congressman
Robin Hayes...
Guardian of North Carolina Seniors.

When it comes to being a "Guardian of Seniors," seniors have no more effective voice in Congress than Robin Hayes. Whether its fighting for lower cost prescription drugs under Medicare, or blocking efforts to raid Social Security, Robin Hayes is always there for North Carolina seniors as a proven, consistent fighter.



"Congressman Hayes can be depended on to protect Medicare and he also has voted for the first prescription drug benefit in history for seniors."

Jim Martin, President
60 Plus Association

Providing Seniors With the Medicare Prescription Drug Coverage They Need

When seniors across the 8th district needed prescription drug benefits under Medicare, Robin Hayes delivered. He helped secure passage of bipartisan legislation to provide seniors with a prescription drug benefit under Medicare.

Protecting Social Security Now and Into the Future

Congressman Hayes will fight any and every plan that would reduce benefits to those who are currently receiving Social Security payments or those who have paid into the system. Because Robin believes overspending by Washington bureaucrats to use your Social Security on their wasteful programs is the biggest threat to our Social Security system, he has voted repeatedly for responsible budgets.

Standing Up for Our Veterans

Robin Hayes believes we can never fully repay the debt of gratitude we owe our veterans for their service protecting our freedom and our country. That's why he works every day to improve the health care and benefits that we are providing to our current armed services and those who have served.

Vote Robin Hayes for Congress
The Right Choice for Congress.
The Only Choice for Seniors.

Working for the Seniors and Families of the 8th District

Endnotes

¹ President Bush, “Remarks on Signing the Medicare Prescription Drug, Improvement, and Modernization Act of 2003,” Bell & Howell Information and Learning Company, Dec. 15, 2003.

² Internal Revenue Code, Sections 527(i) and 527(j), 2003.

³ Internal Revenue Code, Sections 501(c)(4), 501(c)(5) and 501(c)(6), 2003.

⁴ Public Citizen interview with USA Spokesman Jeff Trehwitt in *United Seniors Association: Hired Guns for PhRMA and Other Corporate Interests*, Public Citizen report, July 2002 and Tom Hamburger, “Drug Industry Ads Aid GOP,” *Wall Street Journal*, June 18, 2002.

⁵ Bill Hogan, “Pulling Strings From Afar,” *AARP Bulletin*, February 2003.

⁶ United Seniors Association 990 form, including Schedule B, 2002.

⁷ Public Citizen interview with PhRMA Spokesman Jeff Trehwitt in *United Seniors Association: Hired Guns for PhRMA and Other Corporate Interests*, Public Citizen report, July 2002 and Tom Hamburger, “Drug Industry Ads Aid GOP,” *Wall Street Journal*, June 18, 2002.

⁸ Marilyn Werber Serafini and Peter H. Stone, “A Prescription for Action?” *National Journal*, Dec. 7, 2002.

⁹ Public Citizen Senior Researcher Taylor Lincoln, e-mail message to United Seniors Association President Charles Jarvis, Aug. 5, 2004.

¹⁰ United Seniors Association 990 form, including Schedule B (unredacted), 2001.

¹¹ United Seniors Association 990 form including Schedule B, 2002, and 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.

¹² United Seniors Association 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 outcome 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.

¹³ Bill Hogan, “Pulling Strings from Afar,” *AARP Bulletin*, February 2003. The Seniors Coalition form 990 Schedule B for 2000 reflects a contribution of \$2.1 million, but the identity of the donor is redacted.

¹⁴ Seniors Coalition 990 form, 2002, including Schedule B. 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.

¹⁵ 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.

¹⁶ 60 Plus 990 form, including Schedule B, 2002. 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.

¹⁷ 60 Plus 990 form, including Schedule B, 2002.

¹⁸ Bill Hogan, "Pulling Strings From Afar," *AARP Bulletin*, February 2003.

¹⁹ 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.

²⁰ 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.

²¹ E-mail from Public Citizen Senior Researcher Taylor Lincoln to 60 Plus Association President James Martin, July 28, 2004.

²² America 21 President Tom Smith interview with Public Citizen Senior Researcher Taylor Lincoln, April 12, 2004.

²³ America 21 990 form, 2002. 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.

²⁴ 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.

²⁵ 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.

²⁶ 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.

²⁷ 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.

²⁸ Election activities are those that were found by Public Citizen to raise significant questions as to whether they met the IRS definition of political expenditures, which covers activities "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." Activities were found in news reports, organizations' Web sites and press releases, and academic studies.

²⁹ 11 Code of Federal Regulations, Section 109.21, revised as of January 2004.

³⁰ 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.

³¹ *id.*

³² *Cook Political Report*, Oct. 4, 2002 and Oct. 20, 2002.

³³ Gen. Couns. Mem. 33, 495 (April 27, 1967); and Gen. Couns. Mem. 36, 286 (May 22, 1975).

³⁴ Treas. Reg., Section 1.527-6(a), 1980.

³⁵ “2002 Spending by Groups Which Had 527s,” Wisconsin Advertising Project, June 23, 2004; and 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.

³⁶ 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 outcome 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.

³⁷ United Seniors Association 990 form, 2002.

³⁸ 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.

³⁹ Seniors Coalition 990 form, 2002.

⁴⁰ 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.

⁴¹ 60 Plus Association 990 form, 2002.

⁴² America 21 990 form, 2002.

⁴³ 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.

⁴⁴ 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). IRS instructions request that the group attach a schedule for grants, but no schedule was attached. America 21 distributed direct mail in at least 19 contests in 2002. Public Citizen has obtained copies of a substantial number of the direct mail items and determined that each was likely to satisfy the IRS test as a political expenditure. The group’s president, in an e-mail to Public Citizen, said that some of the group’s efforts in 2002 involved non-partisan voter registration efforts, but he declined to offer a breakdown of America 21’s expenditures. In a letter posted on the America 21 Web site following the 2002 elections, former Rep. Helen Chenoweth-Hage (R-Idaho), chairwoman of America 21, said of the group’s activities: “Here’s what happened when you answered [America 21’s call]: America 21 had a million ‘hits’ on our Web site; extraordinary victories marked this year’s election in the U.S. House of Representatives. Godly leaders who are conservative, pro-family, and pro-life now make up two-thirds of the freshman class.” It is not conclusively evident that all of America 21’s \$3.6 million in expenditures to “activate citizen involvement in the political and voting process” would satisfy the IRS definition of political expenditures. Nonetheless, the preponderance of America 21’s direct mail materials obtained by Public Citizen and statements by the group on its Web site about its objectives suggest that most of America 21’s 2002 expenditures were intended to influence elections.

⁴⁵ America 21 990 form, 2002.

⁴⁶ IRS Spokeswoman Nancy Mathis e-mail to Public Citizen Senior Researcher Taylor Lincoln, Aug. 5, 2004.

⁴⁷ Public Citizen interview with PhRMA Spokesman Jeff Trehwhitt in *United Seniors Association: Hired Guns for PhRMA and Other Corporate Interests*, Public Citizen report, July 2002.

⁴⁸ 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.

⁴⁹ Pharmaceutical Research and Manufacturers of America (PhRMA) 990 form, 2002.

⁵⁰ Public Citizen Senior Researcher Taylor Lincoln e-mail message to PhRMA press office, July 29, 2004, and subsequent telephone calls.

⁵¹ Field reports provided to Public Citizen; “Ad Fad,” *National Journal*, Aug. 24, 2002; “USA On Next,” *National Journal*, Aug. 24, 2004.

⁵² Rebecca Walsh, “‘Soft Money’ Ban Hurting Some Utah Candidates,” *Salt Lake Tribune*, Sept. 13, 2004.