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## **REPORTER MEMO**

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# **Party Conventions Are Free-For-All for Influence-Peddling**

## ***The End of Public Financing for the Conventions Means That Party Bosses Turn Entirely to Corporations and the Very Wealthy***

The Democratic and Republican national conventions – which were supposed to be publicly financed electoral events with reasonable ethics restrictions on influence-peddling by lobbyists – have turned into exclusively privately financed soirees funded by corporations, millionaires and billionaires, and lobbying firms that seek favors from the federal government. Today, less happens at the presidential nominating conventions, because the presumptive nominees are chosen in advance. Fewer people care about the conventions, as declining viewership shows. Yet more is raised and spent at the conventions than when the conventions were major political events decades ago.

The 2016 nominating conventions are expected to continue breaking spending records. The Republican convention in Cleveland is likely to cost about \$71 million total, with \$64 million coming from private sources outside the party committee (such as from the city “host committee”) and another \$7 million from the Republican Party. The Democratic convention in Philadelphia is expected to cost about \$65 million, with \$60 million coming from the host committee and another \$5 million from the Democratic Party.

Public Citizen and the Sunlight Foundation set up a bird-dogging campaign for the 2008 and 2012 conventions to crash the soirees and identify which were in violation of the ethics rules. These efforts shut down one party and brought greater attention to the problem.

Public Citizen will be repeating this bird-dogging campaign for the 2016 conventions.

The presidential nominating conventions originally were envisioned to be fully publicly financed events to avoid the corrupting influence of special interest money, but they have come to be the exact opposite. In 2014, Congress repealed public financing of the conventions, except

for \$50 million in security funds provided to each convention's state and local law enforcement authorities.<sup>1</sup>

Party officials then sought new private sources of convention funding. The first came as a result of an advisory opinion from the Federal Election Commission (FEC), in which the agency determined that the national parties may establish a new party committee, with a \$33,400 annual contribution limit from individuals, specifically to raise funds for the conventions. The second came as a rider to the 2015 appropriations bill, known as the "Cromnibus." This rider established five new accounts for each national party, including a convention account, which could accept three times the party limits on donations.<sup>2</sup> This means a wealthy individual may now contribute \$133,600 a year directly to the parties to pay for the conventions.

However, most of the special interest money to finance the conventions will come through "host committees," entities that presumably represent the host city. Since host committees are not formally classified as a political committee, they may accept unlimited donations from corporations, unions and other special interests. The funds raised through the host committees – expected to be in excess of \$60 million each – will be the primary source of convention funding.

One bulwark still stands against the potentially corrupting influence of all this private money sloshing into party coffers – nearly all of which comes from corporations, lobbyists and special interests with business pending before the federal government: The 2007 congressional ethics rules restrict the manner in which lobbyists and lobbying organizations may host parties and offer gifts to members of Congress at the conventions.

**Public Citizen urges members of Congress and congressional staff to avoid an appearance of corruption by taking appropriate precautions when attending and participating in parties and functions organized by lobbyists and abide by the congressional ethics rules. Public Citizen encourages Congress to revisit the method of funding the national parties and their conventions under the Federal Election Campaign Act (FECA). Ending the slew of new party accounts with sky-high donation limits is one step; replacing special interest funds with public financing of the presidential campaigns and the nominating conventions would be an even greater step.**

#### **A. FECA and the \$100 Million Soft Money Loophole**

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<sup>1</sup> The legislation to repeal public financing of the conventions was a sleight of hand. U.S. Reps. Gregg Harper (R-Miss.) and Eric Cantor (R-Va.) long sought to repeal the entire presidential public financing program but could not muster much support in Congress. So, they narrowed their sights on public financing of the conventions and proposed that the public funds be redirected to pediatric research. They named the legislation the "Gabiella Miller Kids First Research Act" (H.R. 2019) after a bold and enduring 10-year old cancer awareness advocate who had died of brain cancer.

<sup>2</sup> Under the new party contribution limits, the new party convention committee established by the FEC, and the seven new party accounts created by Cromnibus – a convention account, a legal account and a building account for the RNC and DNC, and a legal account and building account for each of the party's congressional and senate committees (all with three times the regular party contribution limit) -- a wealthy individual may now donate \$835,000 per year to a national party or \$1.67 million over an election cycle.

The presidential public financing system was created to replace potentially corrupting “soft money” with public money in the selection of the president, largely in response to a soft money slush fund scandal at the 1972 Republican National Convention. In May 1971, the giant International Telephone and Telegraph Corporation (IT&T) pledged up to \$400,000 to attract the 1972 Republican National Convention to San Diego. The company was facing several anti-trust lawsuits under the Nixon administration. Just eight days after the selection of San Diego for the Republican convention, Attorney General Richard Kleindienst agreed to an out-of-court anti-trust settlement with IT&T that the company considered very favorable. In the wake of this scandal, Congress approved a system of public financing for presidential elections, which included full public financing of the conventions, removing the potentially corrupting corporate money from the convention process.

## **1. The Law Regarding Convention Financing**

FECA’s public financing program for the presidential nominating conventions created a system in which the parties, in exchange for accepting reasonable spending ceilings on their conventions, would receive a block grant from the federal government to pay for nearly all convention expenses. Originally, the spending ceiling and block grant was set at \$2 million, to be adjusted for inflation. FECA was soon amended to increase the spending ceiling and block grant to \$4 million.

The law began to unravel after a series of controversial Federal Election Commission (FEC) advisory opinions and regulations issued in the 1980s. The FEC decided to allow corporate and union soft money to help pay for the conventions through “host committees.” Originally, the FEC limited the soft money loophole for host committees and municipal funds to corporations and unions with a “local tie” to the community hosting the convention. In 2003, the FEC dismissed the requirement of a “local tie” for corporate contributions to host committees and municipal funds altogether.<sup>3</sup>

FEC Commissioner Thomas Harris back in the early 1980s saw the danger of these exemptions getting out of control. He wrote in a dissenting opinion: “By permitting corporations and unions to donate unlimited amounts of money to fund political conventions, the Commission is ignoring one of the clear concerns of 2 U.S.C. 441(b) and its predecessor statutes – that is, the fear of the influence of aggregated wealth on the political process.”<sup>4</sup>

## **2. The Flood of Soft Money into the Conventions**

Commissioner Harris’ prediction that the host committee exception could become a gaping soft money loophole has come true with a vengeance. In 1976, both parties paid for their conventions almost exclusively with public funds, about \$2 million each. In 1980 and 1984, the parties still relied mostly on public money to pay for their conventions, at slightly more than \$4 million in 1980 and somewhat more than \$7 million in 1984. Soft money had only begun to creep into the picture.

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<sup>3</sup> 11 CFR 9008.52.

<sup>4</sup> Commissioner Thomas Harris, Advisory Opinion 1982-27A.

Then, in 1996, the use of privately financed “host committees” by the parties overwhelmed the public financing program. Both conventions received private funds amounting to nearly double the public grant.

In 2000, for example, each party was awarded about \$13.5 million to pay for its nominating convention. In reality, private sources chipped in an additional \$52 million for the Democratic convention in Los Angeles and \$60 million for the Republican convention in Philadelphia. In the 2004 election, the Republicans spent \$101 million on their convention and the Democrats spent \$72 million, all while the official public funding grant intended to pay for the conventions was \$15 million. In 2008, each party was awarded \$16.4 million in public grants to pay for their conventions, but total expenditures through the host committees amounted to more than \$55 million for the Democratic convention and \$57 million for the Republican convention.<sup>5</sup> In 2012, each party was given a public grant of \$18.2 million, but private sources added another \$48 million for the Democratic convention and \$55 million for the Republican convention.

Initially it looked like the Democrats were going to fall far short of the 2012 convention funding levels of the Republicans. As part of the agreement between the Democratic Party and the convention host committee, direct corporate contributions to the convention were banned, lobbyist contributions were prohibited and all other contributions were capped at \$100,000. At the time of the announcement, U.S. Rep. Debbie Wasserman-Schultz (D-Fla.), chairwoman of the Democratic National Committee, said, “We will make this the first convention in history that does not accept any funds from lobbyists, corporations or political action committees. This will be the first modern political convention funded by the grassroots, funded by the people.”<sup>6</sup>

The Democratic Party quickly grew nervous about its self-imposed constraints. Furthermore, with the host committee struggling to make its contractual obligation of arranging \$37 million in additional private funds for the convention, the host committee incorporated New American City Inc., a nonprofit entity run by the convention host committee. New American City received funds from Bank of America, Wells Fargo and Duke Energy, calling into question the value of the pledge against accepting direct corporate contributions with this backdoor avenue in place. In the end, the Democratic host committee fairly closely matched its Republican counterpart.

The 2016 nominating conventions are once again going to be lavish affairs, but this time funded entirely from private sources (except for security). The Republican convention in Cleveland is expected to run about \$71 million, while the Democratic convention in Philadelphia will come in slightly less at about \$65 million. Ironically, so far neither political party has been able to raise substantial funds from wealthy individuals under the new party convention accounts. Nearly all the money to pay for the conventions is coming from the host committees.

For a chart on convention spending from 1976 through 2012, see Appendix A: “Financing the National Party Nominating Conventions, 1976-2012.”

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<sup>5</sup> “Presidential Campaign Receipts,” Federal Election Commission website (July 2012).

<sup>6</sup> “Democratic Convention Benefits from Corporate Cash,” Associated Press (July 21, 2012).

### 3. What Do They Get for Their Money?

Nearly all of the private donors to the convention host committees have business pending before Congress or the White House and have made substantial campaign contributions and lobbying expenditures to press their causes. With the 2008 convention, for example, 173 organizational donors to the host committees have been identified, and all but two are corporations. These donors made more than \$100 million in direct campaign contributions to federal candidates and party committees, and about \$1.5 billion in lobbying expenditures between 2005 and 2008.<sup>7</sup> Clearly, most companies that donate to the conventions want something from the federal government – and they are willing to pay.

Corporations and their lobbyists also purchase a great deal of one-on-one time with lawmakers at the conventions. In return for their donations to the convention host committees, corporate sponsors to the conventions are promised a variety of benefits, ranging from advertising opportunities to VIP tickets to the convention centers. Each host committee advertises numerous levels of sponsorship – the greater the contribution, the greater the access to advertising opportunities and elected officials. Additionally, the sponsorship packet offers contributors the chance to buy access to party luminaries by hosting or sponsoring events such as state delegation receptions.

Host committees and municipal committees are required to file their financial disclosure reports with the FEC either 60 days following the convention or 20 days prior to the general election, whichever comes first.<sup>8</sup>

Consequently, there is little reliable data at this point in time on the private funding sources of the host committees for the 2016 conventions, other than from news accounts.

Recent news accounts have revealed that nine private donors contributed about \$19.2 million to the 2016 Republican convention host committee. The state's JobsOhio economic development agency contributed another \$10 million, while Cleveland and Cuyahoga County pledged another \$2.5 million each.<sup>9</sup> Corporations can become "official" Republican convention host committee sponsors with donations beginning at \$100,000.

As is common among the party and host committees, the Democratic National Committee is offering special benefit packages to big donors. The most exclusive package is the "Rittenhouse Square" plan, named after an upscale section of the city. For a \$467,600 donation to party joint fundraising committees and their various separate party accounts – or for raising at least \$1.25 million for the party – a donor gets:

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<sup>7</sup> Campaign Finance Institute and Center for Responsive Politics, *Donors to Party Conventions Have Spent Over \$1 Billion on Federal Lobbying Since 2005*, reported in *Politico* (Aug. 19, 2008); and Campaign Finance Institute, "Donors to Party Conventions Have Spent Over \$800 Million on Federal Campaign Contributions and Lobbying Since 2005" (June 18, 2008).

<sup>8</sup> 11 CFR 9008.51.

<sup>9</sup> Andrew Tobias, "Donald Trump's Emergence Hasn't Boosted Fundraising for the Convention," *Cleveland.com* (May 17, 2016).

- VIP credentials for all convention proceedings.
- Photo ops at the convention podium.
- Six reserved seats for “an exclusive roundtable and campaign briefing with high-level Democratic officials.”
- Six VIP passes and 14 tickets to “Host Committee” parties and dinners.
- Priority booking in a premier hotel.
- Twenty tickets to the official convention welcome party.

Those who give \$267,200 or raise at least \$750,000 get the “Society Hill” package, which comes with similar perks but fewer tickets.<sup>10</sup>

## **B. Party Time on the Lobbyists’ Dime? Not So Fast**

One way of buying influence with lawmakers is to make soft money contributions to the convention host committees. Another is to pay for a lavish reception or party at the convention for lawmakers and party leaders. Many of the corporate donors, like AT&T, make extensive use of both tactics.

Twelve years ago, the parties at the national conventions were more numerous and more pointedly set up for influence-peddling by their corporate sponsors. The Consumer Electronics Association, for example, a lobbying organization with business pending before the House Energy and Commerce Committee, hosted a luncheon at the 2004 Republican convention to honor committee members. Media companies, seeking specific legislation from Congress, hosted a \$300,000 “Caribbean Beach Bash” at the 2004 Democratic convention in honor of U.S. Sen. John Breaux (R-La.), a leading advocate of media interests over the years. Individual partygoers could pony up an additional \$20,000 for some one-on-one time with the honoree. Though Breaux was retiring, the media lobbyists sent a clear message to his colleagues who remain: We support our friends.<sup>11</sup>

New congressional ethics rules adopted in 2007 placed constraints on this type of influence-peddling at the conventions by lobbyists and lobbying organizations. The “Honest Leadership and Open Government Act” contains a sweeping set of lobbying laws and ethics rules enhancing disclosure of lobbying activity and regulating the behavior of lobbyists, lobbying organizations, members of Congress and their staffs. (Read a detailed summary of the lobbying law [here](#).)

**The new rules ban any congressional lawmaker from participating in an event at the convention honoring that lawmaker if the event is hosted by a lobbyist or lobbying organization.<sup>12</sup>**

This rule expressly prohibits members of Congress from attending any convention party thrown by a lobbyist or lobbying organization where a specific member or members are

<sup>10</sup> Peter Nicholas, “What Big Democratic Donors Will Get in Philadelphia,” *The Wall Street Journal* (Aug. 29, 2015).

<sup>11</sup> Bill McConnell, “Party Animals,” *AllBusiness* (June 21, 2004).

<sup>12</sup> House Rule XXV(8); Senate Rule XXXV(5).

identified by name and title as the honoree (including as a “special guest”), as well as events honoring a group composed solely of members, such as a congressional committee or congressional caucus. Member participation also is prohibited if the member is to receive a special benefit or opportunity that would not be available to some or all of the other participants, such as if the sponsor were to offer the member an exclusive speaking role or a very prominent ceremonial role.

This is precisely how the Senate ethics committee has interpreted the rule, issuing guidelines to that effect. The House ethics committee, however, has issued partly erroneous guidelines on this matter, which is likely to cause confusion and possibly violations of the rule at the upcoming conventions. In describing the nature of the rule, the House ethics committee has interpreted the ban on parties honoring a member as not applying to parties that honor groups of members in which no specific member is identified, such as congressional committees or caucuses.<sup>13</sup> Both congressional ethics committees have also limited application of the rule to the formal dates of the convention itself, rather than the heavy party weekends immediately before and after the convention.

Both interpretations are inappropriate and fail to honor the letter and spirit of the rule. The clear intent of the rule is to prohibit lobbyists from hosting parties related to the nominating convention honoring one, two or even 100 members, either specifically or by committee or caucus name.

Congressional gift rules also prohibit members and staff from accepting gifts from lobbyists or lobbying organizations at the conventions, except under the following circumstances:

- **Reception** – Members and staff may attend a reception hosted by a lobbying organization, including food and refreshment of nominal value offered other than as part of a meal, known as the “toothpick rule.”
- **Widely attended event** – Members and staff may accept dinner, refreshments and entertainment at a widely attended event. An event is considered widely attended when at least 25 people from outside Congress are expected to attend and the member’s attendance should be related to official duties. Free attendance does not include entertainment collateral to the event, such as a concert.
- **Charity event** – Members and staff may accept free attendance at a charity event, provided the primary purpose of the event is to raise funds for a legitimate charitable organization.
- **Campaign fundraiser** – Members and staff may accept free food, refreshments and entertainment in connection with any fundraising events sponsored by party organizations, campaign committees and other political organizations. Such fundraising events must comply with federal or state campaign finance limits and disclosure requirements.

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<sup>13</sup> House Ethics Manual, p. 78.

- **Convention event** – Members and staff may accept food, refreshments, entertainment or other gifts offered by the convention committees, party organizations and federal, state and local governments.

Public Citizen and seven other reform organizations sent a letter to Congress during the 2012 conventions urging all members to abide by the new ethics rules. The letter is available at: <http://www.citizen.org/documents/convention-letter-2012-house.pdf>.

The House Ethics Committee guidance on the conventions is available at: <http://ethics.house.gov/sites/ethics.house.gov/files/Convention%20Events%202016.pdf>

The Senate Ethics Committee guidance is available at: <http://www.citizen.org/documents/senate-convention-guidance-2012.pdf>.

### **C. Conclusion: Lobbyists Gone Wild**

Corporations and their lobbyists see the national nominating conventions as an ideal opportunity to buy access and influence with the presidential campaigns, lawmakers and party leaders. The conventions constitute a campaign media blitz for the campaigns and provide a golden opportunity for lobbyists to extend their lobbying activity off Capitol Hill.

The original intent of the presidential public financing program – to remove the potentially corrupting corporate money (such as from IT&T) from the convention proceedings – was initially weakened by the FEC’s decision to allow unlimited special interest contributions to host committees, and has now been fully nullified when Congress repealed public financing of the conventions. The FEC should reverse its previous rulings on corporate sponsorship of host committees and municipal funds. More important, Congress needs to step up to the plate. At the very least, Congress should repeal the rider that allows wealthy individuals to contribute as much as \$1.67 million per election cycle to the national party committees. Far better, Congress should restore and strengthen public financing for the presidential campaigns and their nominating conventions.

Meanwhile, corporate lobbyists will be partying, schmoozing and lobbying at the national conventions. Though new ethics rules are forcing significant adjustments in the behavior of lobbyists and lobbying organizations at the conventions, there is still confusion that could lead lawmakers to disregard the rules.

It is imperative that members of Congress and their staffs are clear on the ethics rules and approach the party scene prudently. The House ethics committee needs to revisit its guidance so as not to contribute to the confusion. And the public and press must do their best to monitor the convention festivities to ensure compliance with the rules. No one else will.

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Public Citizen is a national, nonprofit consumer advocacy organization based in Washington, D.C. For more information, please visit [www.citizen.org](http://www.citizen.org).

## Appendix A:

### Financing the National Party Nominating Conventions, 1976-2012

Year	Convention	Federal Funding (in \$ Millions)	Private Funding (in \$ Millions)	Total Funding (in \$ Millions)	Percent Private
1976	R Kansas City <sup>14</sup>	2.2	0	2.2	0
	D NYC	2.2	0	2.2	0
1980	R Detroit <sup>15</sup>	4.4	0.7	5.1	13.7
	D NYC	4.4	0.4	4.8	8.3
1984	R Dallas	8.1	4.3	12.4	34.7
	D San Francisco	8.1	2.4	10.5	22.9
1988	R New Orleans	9.2	1.8	11	16.4
	D Atlanta	9.2	1.7	10.9	15.6
1992	R Houston	11	2.2	13.2	16.7
	D NYC	11	6.2	17.2	36.0
1996	R San Diego	12.4	18	30.4	59.2
	D Chicago	12.4	20	32.4	61.7
2000	R Philadelphia	13.5	20.1	33.6	59.8
	D Los Angeles	13.5	36.1	49.6	72.8
2004	R NYC	14.9	85.7	100.6	85.2
	D Boston	14.9	56.9	71.8	79.2
2008 <sup>16</sup>	R Denver	16.4	57	73.4	77.7
	D Minneapolis	16.4	61	77.4	78.8
2012 <sup>17</sup>	R Tampa	18.2	55	73.2	75.1
	D Charlotte	18.2	42	60.2	69.8

<sup>14</sup> Data for 1976 is from Herbert E. Alexander, FINANCING THE 1976 ELECTION, 339 (1<sup>st</sup> ed., 1979).

<sup>15</sup> Data for 1980 through 2004 is from Campaign Finance Institute, THE \$100 MILLION EXEMPTION, 4 (2004).

<sup>16</sup> Data for 2008 is from Campaign Finance Institute, INSIDE FUNDRAISING FOR THE 2008 PARTY CONVENTIONS 1 (2008), available at <http://bit.ly/290S9KW> and from Campaign Finance Institute, Press Release: *New Analysis of FEC October 15th Reports of the Host Committees for the 2008 Presidential Nominating Conventions* (December 10, 2008), <http://bit.ly/29fHrTT>.

<sup>17</sup> Data for 2012 is from David B. Magleby, FINANCING THE 2012 ELECTION, 111 (1<sup>st</sup> ed., 2014).