PUBLICCITIZEN

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RE: Disclosure of sources of funds used for electioneering advertisements

TO: **All electioneering ad sponsors**
FROM: **Public Citizen**
DATE: **October 25, 2010**

We write to request that you publicly disclose the identities of corporations that have contributed to the funds used to purchase your electioneering advertisements.

According to Federal Election Commission (FEC) disclosure records, your organization has sponsored electioneering communications, independent expenditure advertisements, or both, in the 2010 elections. Although a federal statute requires that major donors behind such electioneering activity be reported on FEC disclosure reports, this election cycle is witnessing an alarming trend of ad sponsors refusing to disclose their major donors.

A Public Citizen study of electioneering communications found that while nearly 100 percent of sponsoring organizations disclosed their donors in the 2004 and 2006 elections, fewer than a third of such groups did so in the 2010 primary elections. The level of transparency is expected to fall much further through the course of the 2010 general elections. [See "Fading Disclosure" at: http://www.citizen.org/Page.aspx?pid=4400]

The new phenomenon of hiding the identities of donors is the result of outside groups pushing the envelope and an FEC refusing to enforce the law or clarify its own regulations.

At the very moment that full disclosure of election spending is most needed – following on the heels of *Citizens United v. FEC*, which opened the floodgates for unlimited corporate spending in federal and state elections – voters are left in the dark as to where all this new election spending is coming from.

It is extremely unfortunate that partisan considerations in the U.S. Senate presided over sound policy judgment when a Republican filibuster buried any efforts to mandate disclosure of the sources of funds behind election spending. The DISCLOSE Act was carefully drafted to require that electioneering groups create a special election activity fund and report all sources of funds deposited in that account. Such a system would have protected the legitimate anonymity of those who finance non-electioneering activities of non-profit groups while at the same time ensuring full disclosure of the funds behind electioneering campaigns. In the absence of the DISCLOSE Act system of permitting separate accounts for electioneering and non-electioneering purposes,

and its provisions allowing donors to avoid disclosure by specifying that their funds are not to be used for electoral activity, we are not calling on non-profit groups that are principally engaged in non-electoral activity to disclose all of their individual donors, but we do not believe that concerns about personal privacy should stand in the way of disclosure of corporate funders whose dollars make up part of the funds used for electioneering activities.

With the failure to win passage of the DISCLOSE Act, we are left with no effective transparency of money in politics today.

The Supreme Court in *Citizens United* justified lifting restrictions on corporate electioneering activities in part because of disclosure requirements in the Bipartisan Campaign Reform Act (BCRA): "It must be noted, furthermore, that many of Congress' findings in passing BCRA were premised on a system without adequate disclosure," Justice Anthony Kennedy wrote in the majority opinion. With BCRA's disclosure requirements, he continued, "citizens can see whether elected officials are 'in the pocket of so-called moneyed interests.'"[1]

The Court gravely erred in its assessment of the efficacy of the disclosure requirements that would apply to corporate money in elections. The new, undisclosed corporate money pouring into our elections endangers the electoral process itself and falls far short of the safeguards envisioned by the Court.

On behalf of all voters, we ask that you honor the spirit of federal election law and the words of the Court by disclosing to the public the sources and amounts of corporate funds raised by your organization. The integrity of the electoral process depends on this simple transparency.

Sincerely,

Robert Weissman
President
Public Citizen

David Arkush
Director
Public Citizen's Congress Watch

Craig Holman
Governmental Affairs Lobbyist
Public Citizen

[1] Citizens United v. Federal Election Commission, 130 S.Ct. 876, 916 (2010).