

United States Senate

WASHINGTON, DC 20510

January 9, 2014

The Honorable Mary Jo White
Chair
United States Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chair White:

We were disappointed to see that the Securities and Exchange Commission (SEC) did not include in its regulatory agenda for the upcoming year any rulemaking relating to disclosure of corporate political spending. While we understand that the SEC has much on its plate right now, we believe that disclosure of corporate political spending would have great value for investors and should also be a top priority. We hope that omission of this matter from the 2014 agenda submitted to the Office of Management and Budget is not due to pressure from those who seek to benefit from unregulated and undisclosed corporate political spending. If the omission merely reflects considerations of timing and the SEC's crowded agenda, we respectfully ask that this important investor protection measure remain a priority for the SEC and would appreciate an update as to when the Commission anticipates addressing the issue.

We appreciate the very large workload currently facing the Commission, including Wall Street reform measures that many of us support. There's no doubt that these issues involve a great deal of complexity and require much attention to properly address. Certainly, not every matter can be first in line all of the time. We are eager to understand, however, why disclosure of corporate political spending would be excluded from the SEC's agenda altogether.

The ability of corporate executives to spend company resources for political purposes without shareholders' knowledge raises significant investor protection and corporate governance concerns. Without transparency, executives are free to spend funds invested by shareholders without accountability or monitoring. They might use corporate resources to support political candidates whose positions are directly adverse to shareholder interests, such as a candidate who supports repealing corporate disclosure and shareholder voting protections. An executive might also spend money invested by shareholders to further his or her own personal ambitions unconnected to the best interests of the company – for example, by supporting the campaign of a candidate who the executive hopes will appoint him or her to political office. Whether executives want to use their personal funds for these purposes is up to them, but they should not be able to also use shareholders' money, especially without shareholders' knowledge.

You recently spoke about the value of streamlining public company reporting to keep disclosure meaningful for investors and reduce company compliance burdens. While these are important interests, we do not think they conflict with requiring disclosure of political spending. On the contrary, this information is very material to how shareholders decide where to invest their money and how to vote in corporate elections, and to their ability to monitor and hold

accountable company executives. We have also not seen credible evidence that reporting this information would impose material costs on reporting companies.

Even in cases where amounts spent for political purposes are small relative to a company's overall size, shareholders may still find the information material to their investment or voting decisions. Political election spending differs from ordinary business decisions in that it often implicates deeply held personal beliefs and ideals. Political engagement is a fundamental principle of democracy, and when corporate executives spend shareholder funds on elections without shareholders' knowledge or approval, they take that right away from shareholders. Moreover, without disclosure, shareholders have very limited ability to identify problems and determine materiality.

The Supreme Court's 2010 *Citizens United v. FEC* decision fundamentally re-wrote our nation's campaign finance laws, ruling that corporations should be treated as "persons" under the First Amendment and thus enabling corporate executives to make unlimited expenditures from company treasuries to influence election campaigns. Even before *Citizens United*, shareholders of many companies sought greater transparency into how executives were using corporate resources for political purposes. Since *Citizens United*, investor demand has greatly—and justifiably—intensified, as the magnitude of the problem and the potential for abuse has skyrocketed.

Some companies have agreed to voluntarily disclose their political spending, illustrating its feasibility, but many others continue to conceal their political spending from their shareholders and the public. Shareholders of these companies should not be kept in the dark, and their rights must be protected.

As you know, a group of leading corporate governance and securities law experts submitted a petition to the SEC in 2011 calling for a rulemaking, and this petition has since attracted a record-breaking number of favorable comments—now close to 700,000 and counting—including many from the investor community. In the face of such overwhelming support from experts, investors, and the public, we find the case for prioritizing this issue compelling, and hope that you agree.

We understand that some business lobbyists and political figures who seek to benefit from undisclosed corporate political spending have been engaging in a concerted effort to pressure the SEC not to act. We certainly hope that this campaign has not played a role in the SEC's decision to drop corporate political spending disclosure from its rulemaking agenda, as this would dramatically reinforce the need for urgent action.

We also understand that some of these groups allege that the SEC should stay away from this issue because requiring disclosure would be tantamount to acting as a "back door" election law monitor, and that it should leave this matter to the Federal Election Commission or other bodies. We disagree. While we support broader, more general disclosure of corporate political spending because of the obvious benefits to our democracy, this is a separate issue from an investor protection-driven SEC disclosure requirement, which seeks to address the problems created for investors when corporate executives can spend company funds for political purposes without investors' knowledge. Justice Anthony Kennedy's majority opinion in the *Citizens United* decision recognizes this distinction, discussing the importance of providing shareholders

with the information to hold corporations and their executives accountable.¹ An SEC disclosure requirement might have collateral benefits for our democracy, but its purpose would be to address the important corporate governance concerns raised by undisclosed political spending.

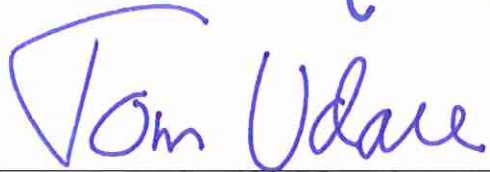
To the extent the omission of this matter from the SEC's 2014 regulatory agenda merely reflects considerations of timing, we respectfully request assurance that this issue remains a priority for the Commission. We would also appreciate any update you can provide as to when the Commission plans or expects to address this issue in the future.

Transparency and disclosure are fundamental cornerstones of investor protection under our federal securities laws. As the owners of a corporation, shareholders should have a say in whether their money is spent for political purposes – and at the very least, they should know how their money is being spent.

We appreciate your attention to this matter.

Sincerely,



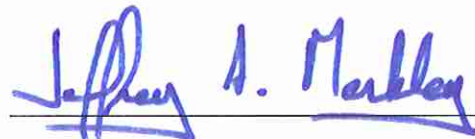














¹ See *Citizens United v. Federal Election Commission*, 558 U.S. 310, 370 (2010).

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