

The *SpeechNow* Case and the Real World of Campaign Finance

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Free Speech For People
Issue Report 2016-02

October 2016

INTRODUCTION

In its *SpeechNow.org v. FEC* opinion, the U.S. Court of Appeals for the District of Columbia Circuit declared that, after the Supreme Court's ruling in *Citizens United v.*

FEC, "independent expenditures [on behalf of candidates] do not corrupt or create the appearance of corruption." It invoked the Court's statement that "the absence of prearrangement and coordination of an expenditure with the candidate or his agent...alleviates the danger that the expenditures will be given as a *quid pro quo* for improper commitments from the candidate." The Court of Appeals then went on to make what it considered a logical deduction: "Given this analysis from *Citizens United*, we must conclude that the government has no anti-corruption interest in limiting *contributions* to an independent expenditure group." (Emphasis added).

In the real political world, however, as this study shows, top donors to super PACs and other independent spenders are not only contributing to these groups. They are simultaneously giving directly to the very candidates who benefit from their contributions to independent spending. The typical two-track donor supports multiple candidates in this fashion. Thus, while independent spending groups are legally restrained from coordinating with their beneficiaries, donors to such groups are legally permitted to financially coordinate with these same candidates within certain contribution limits. When donors amplify their legally limited direct contributions to candidates with unlimited indirect support via independent spending groups, an "anti-corruption interest in limiting contributions to an independent expenditure group" certainly arises. These unlimited donations intensify the dangers of *quid pro quo* corruption and its appearance that contribution limits were established to prevent.

METHODOLOGY OF STUDY

On behalf of Free Speech For People, I asked the Center for Responsive Politics – the highly respected source for federal campaign finance data – to provide information on the top-ranked 100 individual donors (not including family members) and 50 organizational donors to Super PACs and other independent groups supporting candidates during the 2014 and 2012 election cycles. Among these, I requested that the Center identify donors who contributed directly to a candidate as well as to an independent group spending on behalf of that candidate. After analyzing the data, I asked CRP to provide summary tables for each election cycle. In titling these tables, I adopt CRP's characterization of contributions to independent groups as "outside money" since they are outside the contribution limits imposed by campaign finance law.

FINDINGS

We began the universe of analysis with ranked lists of the top 100 individual donors to all independent spending groups for the 2014 and 2012 election cycles. (For 2014, several tied for 100th rank, so that universe actually included 103.) We found that in each of the cycles, there were 81 donors among the top ranked 100 (or 103) who contributed both directly to candidates and also to independent groups benefiting the same candidates that the donor supported directly. Tables 1 (for 2014) and 2 (for 2012) below list those 81 (out of 100/103) donors who “double-gave” in that fashion; the tables are sorted by donors’ rank in giving to independent spending groups overall.

TABLE 1

TOP INDIVIDUAL DONORS OF OUTSIDE MONEY WHO CONTRIBUTED TO CANDIDATES AND TO INDEPENDENT GROUPS SPENDING ON BEHALF OF THE SAME CANDIDATES (2014 ELECTION CYCLE)

| Donor | Outside Money Rank | Number of Candidates Aided | Total Direct Contributions to Candidates | Contribs to Indep. Groups Supporting Same Candidates | Indep. Groups Spending on Same Candidates |
|------------------------|--------------------|----------------------------|--|--|---|
| STEYER, THOMAS F | 1 | 4 | \$13,467 | \$73,725,000 | \$1,536,142 |
| BLOOMBERG, MICHAEL R | 2 | 9 | \$59,800 | \$21,629,929 | \$2,666,603 |
| SINGER, PAUL MR | 3 | 33 | \$141,350 | \$9,872,324 | \$11,676,773 |
| MERCER, ROBERT L MR | 4 | 37 | \$143,000 | \$8,820,000 | \$16,658,810 |
| EYCHANER, FRED | 5 | 16 | \$52,000 | \$8,000,000 | \$3,608,147 |
| SIMONS, JAMES H | 6 | 4 | \$15,600 | \$2,250,000 | \$272,020 |
| RICKETTS, J JOE | 7 | 5 | \$16,125 | \$5,995,000 | \$1,899,444 |
| ADELSON, SHELDON | 8 | 3 | \$10,400 | \$5,500,000 | \$435,086 |
| UIHLEIN, RICHARD E | 9 | 18 | \$88,600 | \$1,685,000 | \$3,654,431 |
| MCNAIR, RON | 10 | 4 | \$10,400 | \$1,500,000 | \$4,177,321 |
| SOROS, GEORGE | 11 | 11 | \$47,500 | \$2,000,000 | \$2,695,016 |
| GRIFFIN, KENNETH MR | 13 | 10 | \$41,200 | \$2,350,000 | \$6,209,867 |
| KLARMAN, SETH A | 14 | 13 | \$42,000 | \$2,700,000 | \$5,583,451 |
| DAVIS JR, KENNETH W MR | 15 | 1 | \$2,600 | \$2,892,495 | \$145,469 |
| MARCUS, GEORGE M | 16 | 1 | \$2,600 | \$1,500,000 | \$48,700 |
| MCMAHON, LINDA MS | 17 | 10 | \$49,400 | \$2,500,000 | \$5,046,160 |
| RICKETTS, MARLENE MS | 18 | 1 | \$5,200 | \$2,700,000 | \$247,499 |
| STEPHENS, WARREN A | 19 | 4 | \$13,000 | \$540,000 | \$2,117,708 |
| CHILDS, JOHN W MR | 21 | 16 | \$79,000 | \$1,850,000 | \$6,475,300 |
| SUSSMAN, S DONALD | 22 | 23 | \$62,800 | \$2,375,000 | \$4,822,221 |
| PERENCHIO, A JERROLD | 24 | 1 | \$5,200 | \$2,000,000 | \$1,175,752 |
| GOLDMAN, AMY DR | 25 | 13 | \$32,000 | \$1,499,759 | \$4,790,172 |
| JAMES, VIRGINIA | 26 | 12 | \$41,600 | \$1,700,000 | \$1,156,458 |
| FIELER, SEAN M | 28 | 2 | \$10,400 | \$385,946 | \$40,652 |
| STRYKER, JON L | 30 | 1 | \$2,600 | \$400,000 | \$1,408,652 |

| | | | | | |
|-------------------------|----|----|-----------|-------------|-------------|
| EARHART, ANNE G | 31 | 10 | \$40,000 | \$800,000 | \$4,398,899 |
| SOROS, JONATHAN ALLEN | 32 | 7 | \$18,200 | \$10,000 | \$2,137,776 |
| LOEB, DANIEL S | 33 | 12 | \$36,300 | \$1,500,000 | \$5,028,713 |
| FIRMAN, RONALD MR | 34 | 2 | \$2,850 | \$1,476,621 | \$1,842,022 |
| PARKER, SEAN | 35 | 2 | \$15,600 | \$600,000 | \$177,792 |
| BEKENSTEIN, JOSHUA | 37 | 11 | \$61,500 | \$1,262,000 | \$5,087,655 |
| SCHWARTZ, BERNARD L | 38 | 5 | \$16,000 | \$956,879 | \$1,408,701 |
| MICHAELS, LAURIE F | 39 | 5 | \$23,400 | \$690,000 | \$3,277,056 |
| LEE, BARBARA F | 40 | 9 | \$45,800 | \$570,000 | \$3,011,930 |
| STRICKLER, ELIZABETH | 41 | 3 | \$10,400 | \$1,125,000 | \$1,366,093 |
| ARNOLD, JOHN D | 42 | 3 | \$10,400 | \$825,000 | \$1,631,170 |
| ROBERTSON, JULIAN H JR | 44 | 5 | \$20,800 | \$812,000 | \$2,632,340 |
| DOERR, JOHN III | 47 | 2 | \$5,100 | \$750,000 | \$2,328,543 |
| HENDRICKS, DIANE MS | 47 | 5 | \$23,400 | \$1,000,000 | \$3,318,462 |
| LAND, PAUL | 52 | 2 | \$10,400 | \$950,000 | \$1,045,430 |
| HAYDEN, JERRY MR | 53 | 26 | \$108,000 | \$907,255 | \$4,635,398 |
| SIMONS, ELIZABETH | 54 | 3 | \$15,600 | \$900,000 | \$1,358,680 |
| SILBERSTEIN, STEPHEN M | 55 | 3 | \$8,600 | \$450,000 | \$2,032,972 |
| BONDERMAN, DAVID | 56 | 9 | \$39,300 | \$585,000 | \$6,754,340 |
| BRYAN, JOHN D MR | 57 | 5 | \$21,600 | \$580,000 | \$4,080,138 |
| MUNGER, JR, CHARLES | 59 | 5 | \$23,400 | \$199,375 | \$316,621 |
| STRYKER, PAT A | 61 | 1 | \$2,600 | \$500,000 | \$421,202 |
| EGERMAN, PAUL | 62 | 4 | \$15,600 | \$125,000 | \$2,818,075 |
| RYAN, VINCENT J | 63 | 8 | \$30,600 | \$745,000 | \$2,001,484 |
| NAU, JOHN L III | 64 | 3 | \$9,582 | \$325,000 | \$2,369,911 |
| OBERNDORF, WILLIAM E | 65 | 6 | \$20,830 | \$658,680 | \$4,513,375 |
| BOIES, DAVID | 66 | 2 | \$7,800 | \$500,000 | \$50,021 |
| MOSTYN, AMBER A | 66 | 1 | \$2,600 | \$750,000 | \$31,409 |
| ASNESS, CLIFF | 68 | 9 | \$34,300 | \$700,000 | \$3,461,527 |
| KATZ, CARY MR | 69 | 47 | \$205,400 | \$685,000 | \$3,533,828 |
| MESSINGER, ALIDA R | 70 | 5 | \$20,800 | \$550,000 | \$2,480,596 |
| DEVOS, RICHARD M MR | 71 | 12 | \$87,800 | \$650,000 | \$6,212,727 |
| SHAW, DAVID E | 71 | 11 | \$31,200 | \$650,000 | \$4,607,891 |
| ARNOTT, ROBERT D MR | 73 | 15 | \$83,100 | \$645,000 | \$2,680,370 |
| UIHLEIN, LYNDE B | 73 | 1 | \$5,200 | \$645,000 | \$10,250 |
| PAUL, PETER T | 75 | 2 | \$10,400 | \$617,000 | \$1,192,879 |
| FIKES, LEE MR | 76 | 5 | \$6,600 | \$260,000 | \$1,004,286 |
| GILLIAM, RICHARD BAXTER | 80 | 8 | \$31,200 | \$500,000 | \$4,083,111 |
| MARCUS, MARVIN | 81 | 5 | \$21,800 | \$580,500 | \$3,040,424 |
| HUMPHREYS, DAVID C MR | 82 | 5 | \$18,200 | \$500,000 | \$3,127,690 |
| CURRY, RAVENEL B MR III | 83 | 1 | \$5,200 | \$50,000 | \$532,445 |
| SOROS, ANDREA | 84 | 2 | \$5,200 | \$250,000 | \$1,137,392 |
| BASS, ANNE T | 85 | 2 | \$6,200 | \$490,000 | \$2,328,543 |
| HIATT, ARNOLD S | 86 | 20 | \$59,700 | \$432,000 | \$4,555,881 |
| MCCORMACK, WINTHROP L | 87 | 2 | \$5,200 | \$255,000 | \$155,845 |
| FARMER, RICHARD T | 88 | 1 | \$500 | \$500,000 | \$15,097 |

| | | | | | |
|-----------------------|----|----|----------|-------------|-------------|
| POWELL JOBS, LAURENE | 88 | 1 | \$5,200 | \$500,000 | \$919,891 |
| WRIGHT, KAREN A MRS | 92 | 10 | \$43,900 | \$510,000 | \$5,995,364 |
| BERGMAN, JAY | 93 | 1 | \$2,600 | \$5,000 | \$53,000 |
| CHOUINARD, YVON | 94 | 2 | \$10,400 | \$500,000 | \$534,724 |
| KATZENBERG, JEFFREY | 94 | 11 | \$44,200 | \$500,000 | \$3,517,395 |
| MITCHELL, P MRS | 94 | 3 | \$10,300 | \$500,000 | \$2,674,259 |
| MURPHY, MIKE MR | 94 | 1 | \$5,000 | \$500,000 | \$102,356 |
| MURPHY, SYDNEY MRS | 94 | 1 | \$5,000 | \$500,000 | \$102,356 |
| ORR, JAMES | 94 | 2 | \$4,600 | \$500,000 | \$853,914 |
| SILLERMAN, ROBERT F X | 94 | 14 | \$36,400 | \$500,000 | \$1,974,559 |
| Average | | 8 | \$30,120 | \$2,474,046 | \$2,710,033 |
| Median | | 3 | \$10,400 | \$500,000 | \$1,974,559 |

Average direct contribution per candidate: \$3,999

Source: Tables provided by the Center for Responsive Politics, October 7, 2016

TABLE 2

TOP INDIVIDUAL DONORS OF OUTSIDE MONEY WHO CONTRIBUTED TO CANDIDATES AND TO INDEPENDENT GROUPS SPENDING ON BEHALF OF THE SAME CANDIDATES (2012 ELECTION CYCLE)

| Donor | Outside Money Rank | Number of Candidates Aided | Total Direct Contributions to Candidates | Contribs to Indep. Groups Supporting Same Candidates | Indep. Groups Spending on Same Candidates |
|----------------------|--------------------|----------------------------|--|--|---|
| ADELSON, SHELDON | 1 | 14 | \$53,000 | \$36,580,000 | \$40,947,078 |
| ADELSON, MIRIAM DR | 2 | 13 | \$45,000 | \$35,450,000 | \$40,957,933 |
| SIMMONS, HAROLD MR | 3 | 6 | \$17,500 | \$24,510,000 | \$34,345,251 |
| PERRY, BOB MR | 4 | 3 | \$7,500 | \$18,600,000 | \$24,445,662 |
| EYCHANER, FRED MR | 5 | 12 | \$52,600 | \$9,500,000 | \$2,738,682 |
| BLOOMBERG, MICHAEL R | 6 | 3 | \$6,000 | \$10,054,235 | \$2,257,263 |
| RICKETTS, J JOE | 7 | 3 | \$7,500 | \$12,550,000 | \$18,933,340 |
| SIMONS, JAMES H | 8 | 2 | \$5,000 | \$3,000,000 | \$1,139,845 |
| MERCER, ROBERT MR | 9 | 11 | \$43,500 | \$5,209,354 | \$27,198,549 |
| THIEL, PETER MR | 10 | 3 | \$19,800 | \$4,600,000 | \$771,245 |
| CHILDS, JOHN W MR | 11 | 2 | \$7,500 | \$1,125,000 | \$1,013,539 |
| ROWLING, ROBERT B | 12 | 3 | \$12,500 | \$3,600,000 | \$21,831,032 |
| GOLDMAN, AMY P DR | 13 | 24 | \$66,260 | \$2,250,000 | \$4,252,577 |
| MOSTYN, STEVE | 14 | 2 | \$10,000 | \$500,000 | \$1,899,907 |
| MCNAIR, ROBERT MR | 15 | 3 | \$12,500 | \$3,100,000 | \$24,445,662 |
| RAMSEY, JOHN MR | 16 | 2 | \$5,000 | \$3,155,933 | \$172,577 |
| KATZENBERG, JEFFREY | 17 | 7 | \$24,700 | \$150,000 | \$3,875,707 |
| ELLISON, LAWRENCE | 18 | 1 | \$5,000 | \$3,000,000 | \$13,919,902 |
| SINGER, PAUL | 19 | 4 | \$11,028 | \$2,815,316 | \$14,312,561 |
| SOROS, GEORGE | 20 | 4 | \$17,000 | \$775,000 | \$1,595,383 |
| FRIESS, FOSTER S | 21 | 23 | \$56,000 | \$2,445,872 | \$29,172,546 |
| GRIFFIN, KENNETH C | 22 | 3 | \$11,500 | \$2,550,000 | \$21,831,032 |

| | | | | | |
|-------------------------------|----|----|----------|-------------|--------------|
| DORE, WILLIAM J SR | 23 | 2 | \$7,500 | \$2,495,000 | \$6,755,015 |
| STRYKER, JON | 24 | 1 | \$5,000 | \$500,000 | \$5,573 |
| CRAFT, JOSEPH W III | 25 | 4 | \$27,500 | \$2,250,000 | \$22,258,971 |
| ROBERTSON, JULIAN | 25 | 1 | \$5,000 | \$2,250,000 | \$13,919,902 |
| HUNTSMAN, JON M SR | 27 | 1 | \$2,500 | \$2,222,039 | \$2,804,234 |
| JACOBS, IRWIN MARK | 28 | 2 | \$7,500 | \$100,000 | \$425,035 |
| COX CHAMBERS, ANNE | 29 | 1 | \$4,975 | \$100,000 | \$5,573 |
| PERENCHIO, JERRY | 29 | 3 | \$12,500 | \$2,100,000 | \$23,290,072 |
| ROBERTS, RICHARD H DR | 31 | 2 | \$10,000 | \$1,000,000 | \$20,485,838 |
| HANEY, FRANKLIN L | 32 | 1 | \$5,000 | \$1,000,000 | \$287,500 |
| UIHLEIN, RICHARD | 33 | 24 | \$84,900 | \$1,715,000 | \$8,938,093 |
| HIATT, ARNOLD S | 34 | 16 | \$46,400 | \$1,825,000 | \$2,790,716 |
| SHAW, DAVID E | 35 | 6 | \$20,000 | \$450,000 | \$2,629,942 |
| EARHART, ANNE GETTY | 36 | 2 | \$7,500 | \$250,000 | \$8,079 |
| ABRAHAM, S DANIEL | 37 | 4 | \$17,500 | \$375,000 | \$1,300,383 |
| KOVNER, BRUCE | 38 | 2 | \$10,000 | \$1,500,000 | \$20,485,838 |
| ANGELOS, PETER G | 40 | 2 | \$7,300 | \$575,000 | \$902,597 |
| STIEFEL, BARBARA A | 40 | 1 | \$5,000 | \$250,000 | \$6,000 |
| ESHELMAN, FRED | 43 | 1 | \$2,500 | \$1,500,000 | \$1,500,000 |
| HERZOG, STANLEY | 43 | 2 | \$2,600 | \$250,000 | \$1,106,725 |
| JAMES, VIRGINIA | 46 | 14 | \$47,500 | \$1,410,000 | \$2,900,907 |
| MCCORMACK, WINTHROP LAFLIN | 47 | 2 | \$10,000 | \$500,000 | \$1,289,810 |
| GEIER, PHILIP H JR | 48 | 3 | \$10,000 | \$1,350,000 | \$20,913,777 |
| SUSSMAN, S DONALD MR | 48 | 5 | \$12,250 | \$1,250,000 | \$155,429 |
| KIMMEL, SIDNEY | 50 | 1 | \$5,000 | \$250,000 | \$64,064 |
| MOSTYN, AMBER A | 50 | 4 | \$2,000 | \$1,250,000 | \$777,882 |
| BOSARGE, WE | 52 | 5 | \$11,000 | \$1,209,900 | \$21,220,468 |
| AHMED, KAREEM | 53 | 3 | \$15,000 | \$200,000 | \$1,295,383 |
| SABAN, HAIM (MEMO) | 55 | 4 | \$17,500 | \$826,040 | \$1,675,800 |
| RYAN, VINCENT J | 56 | 15 | \$49,400 | \$455,000 | \$1,961,952 |
| ARNOTT, ROBERT D MR | 57 | 5 | \$22,500 | \$1,075,000 | \$5,495,359 |
| DAVIS, JAMES S | 57 | 1 | \$5,000 | \$1,000,000 | \$13,919,902 |
| SINQUEFIELD, REX | 57 | 3 | \$6,350 | \$1,100,000 | \$7,183,280 |
| EGERMAN, PAUL | 62 | 3 | \$10,600 | \$360,000 | \$23,625 |
| PICKENS, T BOONE | 63 | 1 | \$10,000 | \$1,000,000 | \$6,565,936 |
| HAYDEN, JL | 64 | 13 | \$45,500 | \$1,035,000 | \$18,968,602 |
| GILLIAM, RICHARD BAXTER | 65 | 2 | \$10,000 | \$1,000,000 | \$20,485,838 |
| STEPHENS, JACKSON T JR | 65 | 5 | \$25,000 | \$1,025,000 | \$2,362,893 |
| BOIES, DAVID L JR | 68 | 1 | \$2,500 | \$10,000 | \$64,064 |
| SOROS, JONATHAN | 69 | 4 | \$10,500 | \$250,000 | \$788,702 |
| BERGMAN, JAY | 71 | 1 | \$1,000 | \$1,000,000 | \$6,565,936 |
| CONARD, EDWARD | 71 | 1 | \$5,000 | \$1,000,000 | \$13,919,902 |
| FAISON, HENRY | 71 | 2 | \$3,000 | \$1,000,000 | \$6,993,875 |
| HUGHES, B WAYNE SR | 71 | 1 | \$2,500 | \$1,000,000 | \$6,565,936 |
| KLEINHEINZ, JOHN | 71 | 1 | \$5,000 | \$1,000,000 | \$13,919,902 |

| | | | | | |
|---|----|----|----------|-------------|--------------|
| MARRIOTT, JW JR | 71 | 1 | \$4,130 | \$1,000,000 | \$13,919,902 |
| MARRIOTT, RICHARD | 71 | 1 | \$5,000 | \$1,000,000 | \$13,919,902 |
| ORTENZIO, ROCCO | 71 | 1 | \$2,500 | \$1,000,000 | \$13,919,902 |
| PAULSON, JOHN | 71 | 1 | \$5,000 | \$1,000,000 | \$13,919,902 |
| RAGON, PHILLIP T | 71 | 3 | \$15,000 | \$250,000 | \$593,073 |
| ST JOHN, EDWARD | 71 | 1 | \$5,000 | \$1,000,000 | \$13,919,902 |
| TROUTT, KENNY MR | 71 | 3 | \$7,500 | \$700,000 | \$10,728,625 |
| WEBSTER, STEVEN | 71 | 1 | \$5,000 | \$1,000,000 | \$13,919,902 |
| SCHWARTZ, BERNARD L | 94 | 3 | \$12,500 | \$658,884 | \$298,073 |
| HAMM, HAROLD | 95 | 1 | \$2,500 | \$985,000 | \$13,919,902 |
| SILBERSTEIN, STEPHEN M | 96 | 11 | \$17,166 | \$575,000 | \$1,686,853 |
| DESJARDINS, DAVID LAWRENCE | 97 | 30 | \$56,500 | \$350,000 | \$4,777,706 |
| FINCH, LAWRENCE | 97 | 1 | \$5,000 | \$850,000 | \$13,919,902 |
| HERRO, DAVID G | 97 | 6 | \$19,800 | \$785,000 | \$20,556,160 |
| Average | | 5 | \$15,979 | \$2,974,538 | \$9,728,917 |
| Median | | 2 | \$6,350 | \$1,000,000 | \$7,183,280 |
| Average direct contribution per candidate: \$3,318 | | | | | |

Source: Tables provided by the Center for Responsive Politics, October 7, 2016

As noted above, in each of the cycles there were 81 donors among the top ranked 100 donors of outside money who contributed both directly to candidates and to independent groups benefiting the same candidates. For example, Column 2 of Table 1 shows that two donors are ranked 47th among the top 100 outside money donors in the 2014 cycle. Column 1 identifies one of them as Ms. Diane Hendricks. Following her row, Column 3 indicates that she directly contributed to five federal candidates. Column 4 shows that she provided these five with \$23,400 (an average of \$4,680 per candidate). Column 5 notes that she gave \$1,000,000 to independent groups that spent funds on behalf of these five candidates (among others). Column 6 shows that these groups (which also amassed funds from other donors) spent \$3,318,462 on Ms. Hendricks' five candidates.

As Tables 1 and 2 show, the average number of candidates receiving such a combination of direct and indirect assistance was 8 per donor in the 2014 election cycle and 5 per donor in the 2012 one (the median numbers were 3 and 2). Donors' direct contributions to their preferred candidates averaged \$30,970 and \$15,979 respectively. As the box below each table indicates, the average donor directly contributed \$3,999 per favored candidate in 2014 and \$3,318 in 2012. In comparison, the maximum contribution a donor could make to a candidate in 2014 was \$2600 for one election and \$5,200 for two (general and primary); in 2012 it was \$2,500 and \$5,000.

The Tables show that each of these donors also supported their favorite candidates by contributing to independent groups that spent on these same candidates' behalf. In 2014, the donors contributed an average of \$2,474,046 to such groups; in 2012 they supplied an

average of \$2,974,538 (the median contributions were \$300,000 and \$1,000,000 respectively). From their total funds, these independent groups then spent an average of \$2,710,033 in 2014 and \$9,728,917 in 2012 on each donor's basket of preferred candidates.

Tables 3 and 4 below follow the same format as Tables 1 and 2. They chart by rank 31 of the largest 52 and 50 organizational donors to "outside" independent spending groups in each respective election cycle.

| TABLE 3 | | | | | |
|--|---------------------------|-----------------------------------|--|---|--|
| TOP ORGANIZATIONAL DONORS OF OUTSIDE MONEY THAT CONTRIBUTED TO CANDIDATES AND TO INDEPENDENT GROUPS SPENDING ON BEHALF OF THE SAME CANDIDATES (2014 ELECTION CYCLE) | | | | | |
| Donor | Outside Money Rank | Number of Candidates Aided | Total Direct Contribs to Candidates | Contribs to Indep. Groups Supporting Same Candidates | Indep. Groups Spending on Same Candidates |
| <i>National Education Assn</i> | 1 | 48 | \$435,000 | \$3,120,800 | \$12,665,721 |
| <i>Carpenters & Joiners Union</i> | 3 | 35 | \$312,500 | \$10,155,980 | \$8,243,510 |
| <i>National Assn of Realtors</i> | 4 | 25 | \$238,090 | \$10,066,929 | \$10,340,685 |
| <i>American Fedn of St/Cnty/Munic Employees</i> | 6 | 66 | \$595,500 | \$7,785,989 | \$15,580,010 |
| <i>AFL-CIO</i> | 7 | 35 | \$162,499 | \$8,272,729 | \$5,157,936 |
| <i>Koch Industries</i> | 8 | 9 | \$80,000 | \$7,000,000 | \$7,950,776 |
| <i>United Food & Commercial Workers Union</i> | 9 | 62 | \$464,000 | \$5,191,752 | \$11,658,235 |
| <i>United Steelworkers</i> | 10 | 22 | \$162,500 | \$693,271 | \$3,614,877 |
| <i>Laborers Union</i> | 11 | 57 | \$463,500 | \$3,193,308 | \$9,744,860 |
| <i>American Federation of Teachers</i> | 12 | 49 | \$484,000 | \$4,683,162 | \$9,215,835 |
| <i>American Federation of Govt Employees</i> | 13 | 44 | \$290,000 | \$3,902,755 | \$7,478,579 |
| <i>National Nurses United</i> | 14 | 1 | \$500 | \$1,863,000 | \$53,064 |
| <i>Alliance Resource Partners</i> | 15 | 3 | \$25,000 | \$2,300,000 | \$3,304,286 |
| <i>Plumbers/Pipefitters Union</i> | 18 | 46 | \$422,750 | \$2,453,000 | \$9,428,137 |
| <i>Office & Professional Employees Union</i> | 19 | 23 | \$148,500 | \$2,671,637 | \$5,643,388 |
| <i>Service Employees International Union</i> | 21 | 45 | \$417,250 | \$1,960,547 | \$8,089,126 |
| <i>National Assn of Letter Carriers</i> | 23 | 47 | \$385,250 | \$2,607,915 | \$9,321,566 |
| <i>Intl Brotherhood of Electrical Workers</i> | 24 | 34 | \$311,125 | \$2,382,500 | \$7,957,365 |
| <i>League of Conservation Voters</i> | 25 | 14 | \$112,630 | \$2,019,641 | \$8,069,159 |
| <i>Operating Engineers Union</i> | 26 | 58 | \$473,000 | \$2,238,395 | \$8,709,582 |
| <i>Communications Workers of America</i> | 27 | 38 | \$272,500 | \$776,467 | \$5,398,561 |

| | | | | | |
|---|----|----|-----------|-------------|--------------|
| <i>Cooperative of American Physicians</i> | 28 | 2 | \$5,000 | \$2,040,628 | \$91,597 |
| <i>Susan B Anthony List</i> | 32 | 18 | \$120,176 | \$1,796,178 | \$110,550 |
| <i>American Assn for Justice</i> | 33 | 53 | \$460,500 | \$1,640,000 | \$11,177,217 |
| <i>National Air Traffic Controllers Assn</i> | 35 | 49 | \$345,000 | \$1,372,879 | \$8,884,589 |
| <i>Environment America</i> | 37 | 12 | \$36,350 | \$725,000 | \$6,492,468 |
| <i>Teamsters Union</i> | 38 | 40 | \$296,000 | \$1,230,200 | \$7,905,596 |
| <i>United Auto Workers</i> | 39 | 28 | \$207,500 | \$977,500 | \$7,338,742 |
| <i>International Assn of Fire Fighters</i> | 45 | 39 | \$348,500 | \$791,008 | \$7,085,453 |
| <i>Planned Parenthood</i> | 46 | 15 | \$138,031 | \$979,611 | \$2,066,820 |
| <i>Chevron Corp</i> | 47 | 4 | \$27,500 | \$1,000,000 | \$184,722 |
| Average | | 33 | \$265,827 | \$3,157,832 | \$7,063,323 |
| Median | | 35 | \$290,000 | \$2,238,395 | \$7,950,776 |
| Average direct contribution per candidate: \$8,071 | | | | | |

Source: Tables provided by the Center for Responsive Politics, October 7, 2016

TABLE 4

TOP ORGANIZATIONAL DONORS OF OUTSIDE MONEY THAT CONTRIBUTED TO CANDIDATES AND TO INDEPENDENT GROUPS SPENDING ON BEHALF OF THE SAME CANDIDATES (2012 ELECTION CYCLE)

| Donor | Outside Money Rank | Number of Candidates Aided | Total Direct Contributions to Candidates | Contribs to Indep. Groups Supporting Same Candidates | Indep. Groups Spending on Same Candidates |
|---|---------------------------|-----------------------------------|---|---|--|
| <i>United Auto Workers</i> | 1 | 20 | \$154,000 | \$1,378,000 | \$4,365,794 |
| <i>Service Employees International Union</i> | 2 | 68 | \$552,500 | \$10,256,953 | \$7,914,332 |
| <i>National Education Assn</i> | 3 | 3 | \$24,000 | \$10,031,151 | \$141,983 |
| <i>American Fedn of St/Cnty/Munic Employees</i> | 6 | 95 | \$871,500 | \$6,780,238 | \$10,949,499 |
| <i>AFL-CIO</i> | 7 | 52 | \$229,000 | \$7,871,861 | \$3,480,365 |
| <i>Environment America</i> | 8 | 2 | \$1,000 | \$3,015,213 | \$259,705 |
| <i>Carpenters & Joiners Union</i> | 9 | 33 | \$267,500 | \$4,187,064 | \$4,534,953 |
| <i>American Federation of Teachers</i> | 10 | 64 | \$675,000 | \$4,344,366 | \$7,426,330 |
| <i>United Food & Commercial Workers Union</i> | 11 | 73 | \$609,000 | \$5,042,147 | \$8,157,062 |
| <i>Communications Workers of America</i> | 12 | 51 | \$332,855 | \$428,373 | \$5,787,657 |
| <i>Laborers Union</i> | 14 | 44 | \$285,500 | \$2,349,984 | \$5,080,862 |
| <i>Contran Corp</i> | 15 | 2 | \$10,000 | \$3,025,000 | \$6,643,286 |
| <i>National Assn of Letter Carriers</i> | 16 | 52 | \$440,500 | \$3,523,242 | \$5,997,842 |
| <i>Plumbers/Pipefitters Union</i> | 17 | 53 | \$474,100 | \$1,375,000 | \$6,019,117 |
| <i>National Assn of Realtors</i> | 19 | 14 | \$144,016 | \$3,179,776 | \$3,166,173 |
| <i>Intl Brotherhood of Electrical Workers</i> | 20 | 57 | \$533,500 | \$2,464,999 | \$4,531,836 |

| | | | | | |
|---|----|----|-----------|-------------|-------------|
| <i>Cooperative of American Physicians</i> | 21 | 8 | \$42,000 | \$2,783,980 | \$593,272 |
| <i>League of Conservation Voters</i> | 23 | 26 | \$172,815 | \$1,681,443 | \$1,217,358 |
| <i>FreedomWorks</i> | 24 | 1 | \$2,500 | \$2,652,942 | \$6,595 |
| <i>National Air Traffic Controllers Assn</i> | 29 | 37 | \$217,000 | \$1,015,667 | \$5,225,958 |
| <i>Operating Engineers Union</i> | 30 | 68 | \$615,600 | \$2,225,978 | \$6,249,270 |
| <i>Alliance Resource Partners</i> | 31 | 3 | \$20,000 | \$2,100,000 | \$8,339,069 |
| <i>American Postal Workers Union</i> | 32 | 55 | \$438,540 | \$2,003,730 | \$7,283,332 |
| <i>Susan B Anthony List</i> | 35 | 31 | \$186,068 | \$1,872,413 | \$131,137 |
| <i>American Assn for Justice</i> | 36 | 35 | \$323,000 | \$1,554,000 | \$6,134,181 |
| <i>Teamsters Union</i> | 38 | 34 | \$265,500 | \$1,535,100 | \$6,025,535 |
| <i>United Steelworkers</i> | 40 | 51 | \$393,500 | \$1,292,500 | \$3,984,610 |
| <i>Painters & Allied Trades Union</i> | 45 | 10 | \$80,000 | \$67,500 | \$242,401 |
| <i>Office & Professional Employees Union</i> | 48 | 38 | \$179,500 | \$966,739 | \$4,417,308 |
| <i>International Assn of Fire Fighters</i> | 49 | 44 | \$379,000 | \$974,969 | \$5,559,370 |
| <i>UNITE HERE</i> | 50 | 24 | \$165,766 | \$1,020,000 | \$2,944,753 |
| Average | | 37 | \$293,057 | \$3,000,011 | \$4,606,805 |
| Median | | 37 | \$265,500 | \$2,225,978 | \$5,080,862 |
| Average direct contribution per candidate: \$7,914 | | | | | |

Source: Tables provided by the Center for Responsive Politics, October 7, 2016

In each election cycle 31 of the top-ranked 50 donors of outside money contributed both directly to candidates and to independent groups benefiting the same candidates. As the tables show, the average number of candidates receiving such a combination of direct and indirect assistance was 33 per donor in 2014 and 37 in 2012 (median numbers were 35 and 37). Donor organizations' direct contributions to their preferred candidates averaged \$265,827 and \$293,057 respectively. As the box below each Table indicates, the average donor directly contributed \$8,071 per favored candidate in 2014 and \$7,914 in 2012. In comparison, in both cycles the maximum amount an organization could contribute to a candidate, through a regular PAC, was \$5,000 for one election and \$10,000 for two.

The Tables show that each of these donors also supported their favorite candidates by contributing to Super PACs and other independent groups that spent on these same candidates' behalf. These donors contributed an average of \$3,157,832 to such groups in 2014 and \$3,000,011 in 2012 (the medians were \$2,238,395 and \$2,225,978). From their total funds, these independent groups spent an average of \$7,063,323 in 2014 and \$4,606,805 in 2012 on each donor's basket of favored candidates.

Conclusion

In sum, the great majority of top individual and organizational donors to super PACs and other independent spenders were effectively double givers to preferred candidates. They directly funded their campaigns with, on average, contributions of thousands of dollars per candidate – amounts exceeding the legal maximums for donating to one of a candidate’s two elections. Simultaneously, they donated, on average, millions of dollars to independent groups spending on behalf of the same basket of candidates, as well as others.

Critics of the *SpeechNow* ruling and its descendants have rightly argued that its analysis ignores the ability of contributors of unlimited funds to independent spending groups to communicate with candidates benefiting from those donations and thereby turns a blind eye to the danger of quid pro quo corruption and its appearance. The present study demonstrates that the majority of top donors to independent groups are doing more than talking to these candidates: they are also directly funding their campaigns at levels approaching the legal maxima.

About the Author

Stephen R. Weissman is a political scientist specializing in American Government who has taught at Fordham University, the University of Texas at Dallas and Howard University. As Legislative Representative for Public Citizen on Campaign Finance Reform (1998-2002) and Associate Director for Policy with the Campaign Finance Institute (2002-2009), he has conducted many studies and published reports, articles and book chapters concerning the campaign finance system. Among these were “BCRA and the 527 Groups,” in Michael Malbin ed., *The Election After Reform* (Lanham, M.D.: Rowman and Littlefield, 2006) 79-111 (with Ruth Hassan) and “Nonprofit Interest Groups’ Election Activities and Federal Campaign Finance Policy,” *The Exempt Organizations Tax Review* (October 2006) 21-38 (with Kara Ryan). Weissman had first-hand experience with Congress as Staff Associate and Staff Director of the House Foreign Affairs Committee’s Subcommittee on Africa from 1979-1991.

About Free Speech For People

Free Speech For People works to renew our democracy and our United States Constitution for we the people. Founded on the day of the Supreme Court’s *Citizens United* ruling, Free Speech For People envisions a democratic process in which all people have an equal voice and an equal vote. We educate, we organize, we fight in the courts, and we press for a constitutional amendment to reclaim our democracy. To learn more, please visit our website: www.freespeechforpeople.org.