

**Testimony of Ann M. Ravel
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**Before the Committee on Rules and Administration
United States Senate**

**At a Hearing Entitled
“Dollars and Sense: How Undisclosed Money and
Post-McCutcheon Campaign Finance Will Affect the 2014 Election and Beyond”**

April 30, 2014

Mr. Chairman, Ranking Member Roberts, and distinguished Members of the Committee:

Thank you for inviting me to appear before you today. Although I am Vice Chair of the Federal Election Commission, I am not testifying in that capacity nor am I speaking for the Commission today. Instead, my testimony concerns a case from my tenure as Chair of the California Fair Political Practices Commission (FPPC) during the 2012 election cycle.

That case, *FPPC v. Americans for Responsible Leadership*, revealed how dark money networks are able to anonymously inject large amounts of money into our political process. Using shell corporate entities, wire transfers, and fund swapping with no apparent purpose other than to hide the sources of funds, these national networks skirt disclosure rules with relative ease.

In 2012, California voters had two statewide initiatives on the California ballot — Proposition 30, which proposed to raise taxes, and Proposition 32, which sought to prohibit unions from using automatic payroll deductions to raise money for political campaigns. On October 15, 2012, just a few weeks before the election, an \$11 million contribution was made to a California political action committee, the Small Business Action Committee PAC (SBAC), a group that opposed Prop 30 and favored Prop 32.

This was the largest anonymous donation in California campaign history. It was made by an Arizona nonprofit corporation, Americans for Responsible Leadership (ARL), a group that had never before made a contribution in California. Indeed, ARL had never made a contribution over \$500,000 to any political action committee, even in Arizona. The group’s generic-sounding name revealed little or nothing about its donors or incorporators.

A complaint was filed with the FPPC concerning this contribution. In response, the FPPC requested information from ARL to determine whether it had followed California law in documenting and disclosing the source of its \$11 million contribution.

California law requires groups like ARL to maintain records related to their contributions. The law also requires these groups to disclose the source of the contribution if the money was given to the group in response to a solicitation. Or if the funds were earmarked for a political committee, the original source would have to be reported. In short, California law requires adequate disclosure *before* the election so that voters can make informed choices at the ballot box.

ARL did not provide information showing it had complied with California law. So, with only two weeks before the election, the FPPC and California's Attorney General's Office filed suit to compel an audit. On the Sunday before the election, a unanimous California Supreme Court issued an unusual weekend decision ordering ARL to immediately provide records to the FPPC. The next morning, the day before the election, ARL finally disclosed the source of the contribution — two other nonprofit groups.

ARL disclosed that the \$11 million originated from a Virginia-based nonprofit, which transferred the funds through an intermediary group called the Center to Protect Patients Rights (CPPR). CPPR then passed the money to ARL to give to SBAC. With this disclosure, ARL admitted that it was solely an intermediary, meaning it contributed money that actually originated with another source.

ARL's admission and the FPPC's subsequent formal investigation revealed how dark money networks sidestep disclosure rules and are able to anonymously infuse large amounts of money into an election. Ultimately, the FPPC discovered that \$15 million — not the \$11 million originally thought — was used to influence California's election. Yet none of it was adequately disclosed.

The genesis was with a California consultant who began raising money in connection with Propositions 30 and 32. Some of the money went to political action committees in California, which are required to disclose their donors. But approximately \$29 million was sent out of state, to the Virginia nonprofit, because the donors did not want their identities disclosed. The Virginia nonprofit planned to use the funds to run issue advertisements in California.

In September 2012, when it became known that California law might require donor disclosure of issue ads within 60 days of the election, the money was transferred to CPPR. But this arrangement — seemingly a no-strings-attached gift of millions of dollars to CPPR — was not entirely arm's length.

The California consultant had worked closely with CPPR's founder on the California ballot initiative strategy and understood that he had access to a national network of nonprofits. So when the money was transferred to CPPR, it was done with confidence and the founder's assurance that other funds from other groups in the network would be guided back to California to help oppose Prop 30 and support Prop 32. In fact, the California consultant told investigators that he believed CPPR's founder may have been interested in the fund-swapping arrangement because the infusion of funds from the Virginia nonprofit could help CPPR avoid disclosure of its activities under federal law.

With this tacit understanding, the Virginia nonprofit began transferring nearly \$25 million to CPPR. CPPR, in turn, began directing funds through a series of other groups back to California's ballot initiatives. In two sets of transactions involving four different nonprofits, CPPR and ARL funneled \$15 million into California's 2012 election.

In the first series of transactions, a transfer of \$4.05 million was made to CPPR, and shortly thereafter an almost identical amount — \$4.08 million — was transferred to a group called California Future Fund (CFF). FPPC investigators discovered that, at the California

consultant's suggestion, CPPR had transferred funds to an Iowa-based group that, in turn, sent funds to CFF for use on the California ballot initiatives. This entire chain of transactions — routed through multiple nonprofits — occurred within three days and without disclosure.

The second series of transactions, involving the \$11 million contribution that originally raised suspicions, followed a similar pattern but used different groups in the network. The California consultant told investigators that, around the time of a \$14 million transfer to CPPR, he requested \$11 million from CPPR for the California ballot initiative. CPPR then routed \$11 million to SBAC, using ARL as an intermediary. This \$11 million transfer was arranged via text message, illustrating the ease with which a network is able to avoid disclosure. After traveling a circuitous route through multiple nonprofits around the country that obscured its true origins, the money then returned to SBAC in California, where it was disclosed as a contribution from ARL.

The *Americans for Responsible Leadership* case shows that enforcing compliance with disclosure requirements is complicated by the nationwide scope and elusiveness of these networks. The web of organizations involved in this case stretched from Virginia to Arizona to Iowa. None of these out-of-state groups had any apparent connection to California, each had generic names revealing nothing about their donors or incorporators, and they may have been little more than shell entities.

For example, although California Future Fund was a registered California political committee, it had an Iowa address and its principal officers had no apparent connection to California. CPPR's office address was listed as a post office box in Arizona and apparently no longer exists with that same name. With entities operating across state lines, popping up and then disappearing or changing names, it is difficult to ensure meaningful disclosure.

These tactics have no apparent purpose other than to conceal the sources of funds. The U.S. Department of Justice has expressed concern that the lack of disclosure increases opportunities for unseen *quid pro quo* corruption. In testimony before the Senate Judiciary Committee's Subcommittee on Crime and Terrorism last year, a Justice Department official explained that without transparency it is much more difficult to detect, for example, the payment of bribes to corrupt officials or the use of foreign funds to influence elections. And section 81002(a) of the California Government Code provides that “[r]eceipts and expenditures in election campaigns should be fully and truthfully disclosed in order that the voters may be fully informed and improper practices may be inhibited.”

Just as important, without timely action to require disclosure, voters can be denied information when it matters most — *before* the election. The FPPC's quick action in *Americans for Responsible Leadership* resulted in some disclosure of the sources of the \$11 million contribution on the eve of the 2012 election. That disclosure was significant to the people of California, but it took another year to untangle the web of transactions and provide the public with more information about the full scope of the transactions.

Ultimately, a record-setting \$1 million fine was levied against CPPR and ARL. In addition, California law requires the final recipients of the inadequately disclosed funds to disgorge the total amount.

The purpose of the California Political Reform Act was to “assure public trust in government” by requiring disclosure. Dark money in the political system not only increases the risk of corruption and undermines the ability to ferret out that corruption, it also contributes to public distrust and disassociation from government.

The litigation and investigation by the FPPC in this case shows that public officials from both political parties can work together in a responsible way to enforce the law. In addition, improving disclosure laws at the state and local level certainly can make a difference. But because dark money has a nationwide impact, it would be most effectively remedied by a federal solution.

While I am not here to comment on FEC-related matters, I would be glad to answer your questions about the *Americans for Responsible Leadership* case.

Thank you again for the opportunity to appear before the Committee.

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