

Transcript

Forum: Corporate Political Spending and Foreign Influence

Hosted by Commissioner Ellen L. Weintraub

Federal Election Commission, 999 E St. NW, Washington, DC 20463

June 23, 2016

Statement of Melissa Yeager, Sunlight Foundation

MELISSA YEAGER, SUNLIGHT FOUNDATION: Thank you. Good morning, and thank you to members of the Federal Election Commission and particularly to Commissioner Weintraub for inviting me to speak here today on behalf of the Sunlight Foundation. My name is Melissa Yeager and I'm pleased that the Commission has allowed me this opportunity to share some of the knowledge and talk about an area of campaign finance that not only concerns us but I think it concerns the American people as a whole.

First off, I'd like to talk a little bit about the organization that I represent, the Sunlight Foundation. Sunlight is a nonpartisan, non-profit organization. We focus on transparency and accountability in government, one area of which is the influence of money and politics. As journalists, we have covered campaign finance, lobbying, and various forms of influence. The technologists we work with have experimented with tools to help the public access data and information so they can better understand their government. And we are certainly strong believers in the First Amendment, but we also believe that disclosure and transparency lead to a stronger democracy.

And in this election cycle, Americans will be exposed to billions of dollars' worth of advertising and messages meant to influence their votes and we believe Americans should have access to information that will allow them to consider the source of that messaging.

It's clear this election cycle, on both the Democratic and Republican sides of this issue, that the American public is clearly exhausted by the influence of money in our political process. They are

frustrated that a disproportionate number of people have a louder voice in democracy simply because they have more money. And additionally, they're weary about outside groups playing an increasingly large role in elections, particularly those, as we've spoken about, that are funded by anonymous donors.

Voters want to know who is influencing their elected officials so they can hold them accountable for their decisions and more disclosure could help mitigate this frustration in our opinion.

We believe it empowers voters to make informed decisions, allows them to understand the political process, and sheds light on potential areas of corruption. This sort of sunlight ensures the integrity of our political system and it seems that the American public agrees with us.

According to a poll by the Associated Press and NORC at the University of Chicago, 78% of both Democrats and Republicans alike favor a requirement that the names of political donors be made public. And, as Sheila mentioned, the 2016 election cycle is on track to exceed 7 billion in spending, including 500 million in dark money from groups that aren't required to disclose their donors.

And that means that people don't have information about these organizations to evaluate the often complex and controversial messages that they receive. We're seeing more and more dark money coming from 501(c)(4) nonprofit social welfare groups and limited liability companies that we kinda refer to as "shell LLCs," set up for the sole purpose of influencing campaigns and elections.

If we've learned anything from the recent reporting, including stories concerning the Panama Papers, it's that LLCs are internationally used as a vehicle for people to move money in secret. And there are many examples of LLCs already in this cycle but we know of at least one example where the owner admitted he was using it to distance himself from a campaign. For example, an analysis by the Sunlight Foundation showed that a super PAC supporting Marco Rubio had several untraceable LLC donors. The biggest was a \$500,000 donation from IGX LLC, with an address in Delaware. The only information on

the LLC filing is that of the corporate that registered them, Corporation Service Company, and that's where the paper trail ends.

Andrew Duncan, the owner of IGX, told the AP that he had used IGX to max the donation because he was worried about reprisals, which is refreshingly honest, but also troublesome. While there are many agencies that should be concerned about the lack of information about LLCs, the FEC has a duty to ensure the integrity of our elections and know the source of their funding. The Supreme Court has repeatedly ruled that the First Amendment supports disclosure of campaign contributions; under some circumstances, people do have the right to anonymous speech, but there is no explicit right to make anonymous contributions. Nor do the people who are not U.S. citizens or permanent residents have any right to participate in American elections.

With that in mind, these anonymous groups represent a significant area of concern when it comes to ensuring the integrity of our elections. It's easy to set up an LLC, particularly in Delaware, and use that LLC as a vehicle to give to a campaign. So, as it stands, a foreign donor could potentially set up an LLC to give to a political campaign. Even a foreign government could take this route, considering there are places like China where corporations are partially owned and controlled by their government.

The law is pretty clear when it comes to the influence of foreign money on our political process, what Congress intended. Congress clearly stated without ambiguity: It can't happen. Congress entrusted the FEC to devise methods to make sure the intent of this law was enforced. The FEC, to our knowledge, has not devised or implemented any mechanism in response to *Citizens United* to hold up one of the basic and upheld parts of campaign finance law, ensuring foreign money does not find its way into U.S. elections.

The *Citizens United* decision established that corporations have rights comparable to individuals when it comes to outside spending in election, allowing companies to exercise free speech through uncapped independent expenditures.

We live in very polarizing times in politics, but as the Pew Research Center pointed out, Americans on both sides of the issue agree that they are very concerned with the influence of money on our political system. We're glad the FEC is holding this forum to look at the flow of money into the system and examine ways to make sure it adheres to current U.S. law.

As our name suggests, we believe sunlight to be the best of disinfectants and we feel more disclosure would make a difference in restoring integrity to our politics and the public's faith in our government. Thank you.