COLLISION COURSE

The Risks Companies Face When Their Political Spending and Core Values Conflict and How To Address Them

CENTER FOR POLITICAL ACCOUNTABILITY

Table of Contents

See Appendix at www.politicalaccountability.net/reports/political-spending-and-unintended-consequences.

Acknowledgements

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Foreword

By Constance E. Bagley

Just in time for this fall's mid-term elections, the Center for Political Accountability, a non-partisan public policy organization dedicated to transparent and responsible corporate political spending, has issued important guidance for directors and executives navigating the "incendiary new political and digital media environment." At a time when "many Americans have lost faith in core institutions—public and private alike,"[1] there is, in the words of Norm Johnston, global chief digital officer for Mindshare, "nowhere [for companies] to hide."[2] Even if a firm would prefer to stay out of divisive politics and avoid hyper-charged social issues, increasingly employees, investors, and other stakeholders are demanding that business leaders speak up about social and political matters, ranging from climate change to gun control to LGBTQ rights, and ensure that the company's actions advance the company's espoused core values.

As a harbinger of things to come, consider the blowback when it was revealed that the Swiss pharmaceutical giant Novartis and the American telecommunications firm AT&T had paid hundreds of thousands of dollars to hire a consulting firm created by President Donald Trump's personal lawyer Michael Cohen, who had no prior experience in healthcare or telecommunications.[3] Los Angeles Times business columnist Michael Hiltzik suggested that "heads should roll" at both companies, arguing that even though the payments were apparently "not technically illegal," that "doesn't mean they're right or that they reflect responsible management of public corporations or of their resources."[4]

As the ultimate guardians of the firm's financial, human, reputational, and political capital, corporate directors need to take an informed and proactive approach to winning in both the marketplace and the polls with integrity.[5] CPA correctly points out that multiple "watchdogs and the media are asking tough questions of companies whose substantial contributions have made possible policies that seem contrary to their professed core values and brand."[6]

Four decades ago, the Business Roundtable, an organization of the nation's leading CEOs, provided the following guidance that's even more timely and relevant for companies as they navigate today's challenging political environment: "… [I]t is important that each corporation give attention to all the consequences of its activities…. [A corporation] must be a thoughtful institution which rises above the bottom line to consider the impact of its actions on all, from shareholders to the society at large. Its business activities must make social sense just as its social activities must make business sense."[7]

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"…[I]t is important that each corporation give attention to all the consequences of its activities."

Business Roundtable

Methodology

This report follows the money. It is based on:

- A review of company political spending through political committees and trade associations from the 2010 election cycle to the present;
- Legislation, policy outcomes, and media coverage that followed; and
- An examination of how these outcomes and actions aligned with the core values, brands, and positions of the contributing companies.

The Center for Political Accountability is a non-partisan public policy organization that has examined and documented the risks posed to companies by their political spending. This report examines more cases of political spending in support of Republicans than Democrats. That is in line with patterns in company political spending and with changes in party control at the congressional and state level. This does not reflect any partisan preference on the part of the Center.

Introduction and Overview

Losing Faith in Core Institutions

Despite overall economic gains nationwide, "many Americans have lost faith in core institutions—public and private alike. They don't believe that government or business understand the challenges they face, or are willing or able to address them," Thomas J. Donohue, president and CEO of the U.S. Chamber of Commerce, said in his annual State of American Business speech in January.[8]

Similar warning signs emerge from public surveys. Trust in U.S. business declined from 58 percent to 48 percent between 2017 and 2018, according to the 2018 Edelman Trust Barometer,[9] and in government, from 47 to 33 percent. A Public Affairs Council/ Morning Consult poll found that "Only 47% of Americans have some or a lot of trust that major companies will behave ethically," and just 9 percent of Donald Trump voters and 8 percent of Hillary Clinton voters ranked CEOs of major companies highly for their honesty and ethical standards.[10]

When a crisis of corporate reputation is developing, how can U.S. companies regain public trust? The question is especially relevant at a time of extreme political polarization, when companies are increasingly being pressed to take sides on hot-button issues that reach well beyond those immediately affecting their bottom lines.[11] In many instances, they're being urged to participate in America's culture wars.

"Only 47% of Americans have some or a lot of faith that companies will behave ethically."

2018 Edelman Trust Barometer

A New Era: Corporations in the Crosshairs

At the intersection of business and politics in America, a new era has dawned, bringing hyper-charged, partisan and passionate division over political and social issues to the fore. The warp-like speed of digital news and social media inflames passions. In this fraught climate, and ahead of this fall's mid-term elections, corporations are in the crosshairs.

Brands have been thrust into the center of sweeping controversies more than any time in recent memory. As Norm Johnston, global chief digital officer for Mindshare, told the New York Times, "there is nowhere to hide. … In an age where everything can be politicized," Johnston said, "it may be impossible for brands to not take a position on core values."[12]

What does the new era look like? "To prosper over time, every company must not only deliver financial performance, but also show how it makes a positive contribution to society,"[13] Laurence Fink, CEO of BlackRock, the world's largest institutional investor, wrote recently in his annual letter to CEOs. A growing wave of CEOs and corporations are taking sides in the political and culture wars.[14] More companies are embracing marketing with a message.[15] Yet at the same time, numerous brands are attempting more quickly to distance themselves from controversy.[16]

In this climate, corporate leaders are acting to protect their companies' reputations and brands. A global executive survey in 2014 identified harm to reputation as the number one strategic risk facing companies, and 87 percent of executives surveyed rated it as more important or much more important than other risks.[17]

"Companies respond to reputational risk aggressively. Activist shareholders, public pressure from customers amplified through social media, and business press all combine to move corporate leadership to engage on issues to protect brands,"[18] an anonymous Wall Street executive told Axios.

It is clear that a sea change in civic and political engagement by corporations is under way. It is reflected by CEOs speaking out or resigning from presidential advisory councils following white supremacist violence in Charlottesville last summer and a presidential response perceived by some CEOs as inadequate. Companies have exerted economic leverage to take business away from states with governments perceived to be restricting LGBT rights, or to cut business ties with the National Rifle Association after the Parkland, Florida high school massacre in February. Companies have withdrawn advertising from such venues as Breitbart News, The O'Reilly Factor and The Ingraham Angle to avoid association with controversial opinions or alleged misconduct. Still others have issued statements reaffirming support for the Paris climate accord following the United States' withdrawal.

Companies also have responded by examining their own practices. Some have adopted policies promoting racial, gender, and sexual orientation diversity and discouraging sexual harassment. Others have advocated sustainable business practices for addressing climate change.

Emerging Threats for Companies

When more companies shift from avoiding the hottest issues of the day to taking a stand, and public passions over political and social issues often boil over into outrage, it leads to a heightened risk for companies: Will their actions align with their core values and brands? Increasingly, this question is being raised publicly about scores of U.S. corporations whose underwriting of political groups and trade associations contributes to outcomes that appear to conflict with core company values and messaging.

Although big individual donors often get the most media attention, many U.S. companies have injected large sums of money into election campaigns in recent years, making them a major force, especially in Congressional and down-ballot contests and often through third-party groups. This continues to be the case going into the 2018 election.[19]

It is in this context that watchdogs and the media are asking tough questions of companies whose substantial contributions have made possible policies that seem contrary to their professed core values and brand. Here are examples this report will highlight:

- Did Google, Bank of America, and Coca-Cola (along with two dozen other companies) ever expect to be singled out by a Pulitzer Prize-winning watchdog for supporting climate action while also funding opposition to it?[20]

- U.S. companies pushed back against a North Carolina law restricting restroom access for transgender people. But who helped make that law possible? Many of the same companies, another investigative report concluded.[21]

- When two New Jersey-based companies that make contraceptives – and their trade association – gave millions of dollars to conservative political committees, a home-state newspaper challenged them for backing "opponents of [the] birth control they're selling."[22]

- How did various Fortune 500 companies that embrace diversity end up scorned in an investigative report for "funding the political resegregation of America"?[23]

When The Conference Board, the nation's leading business research organization, published in 2010 its Handbook on Corporate Political Activity, it pointed to the fundamental risk of backlash that companies face when they spend political money. The large retailer Target, "a company recognized for its support of gay rights and diversity," donated $150,000 to a group supporting a candidate for governor who opposed gay and immigration rights.[24] Target drew widespread public criticism from customers and employees, and boycott threats, before it apologized and vowed to review its internal processes for such spending; ultimately, "Its brand … suffered significant short-term damage,"[25] according to The Conference Board Handbook.

Eight years later, the fact that more companies are getting engaged and the political climate is far more polarized means these companies are highly vulnerable to reputational and financial risks, even if these risks have not fully materialized yet. The recent suggestions of corporate hypocrisy in political spending highlighted in this report have not gone viral or ignited a crisis, and they haven't devalued company shares. Yet they involve ethics and integrity, identified by the global executive survey as the top driver of reputational risk. They also represent an emerging reality: Media and watchdogs are giving increasing scrutiny to cases when company political money and core values appear out of alignment.

"One of the greatest dangers for a company in the age of social media is acting in ways that are inconsistent with its core values,"[26] warns Deloitte, the global consulting and accounting firm, and that danger will be escalated this election year. Because the election will determine not only control of Congress and states but potentially the success of a presidency, its stakes are sky-high. Corporations will face immense pressure to give big sums of political money.[27] And in this new era, they are likely to face intense scrutiny. How long, then, before one or more corporations are accused of hypocrisy in their political spending and it all goes viral?

This report will identify a threat to companies that is widely overlooked: In an incendiary new political and digital media environment, corporations face a heightened and dangerous risk to their reputations and brands when they spend political money.

This report will also argue that corporations have an opportunity to protect their reputations by enacting corporate governance safeguards to align their political activity with their brands, core values and positions.

"One of the greatest dangers for a company in the age of social media is acting in ways that are inconsistent with its core values."

Deloitte

Perceived Political Activity Ignites a Backlash

"Brands are shifting from a world where they avoided politics at all costs, he said, to one where younger consumers want to know that their 'values are aligned.'"

Ken Kraemer
CEO of Deep Focus

Just how vulnerable are companies and their brands to getting thrust into the crosshairs today? The following episodes are telling.

Backlash from the Left

Prior to Inauguration Day 2017, controversy erupted when it was disclosed that Linda Bean, granddaughter of the founder of L.L. Bean and a member of the company's board of directors, had given thousands of dollars to a political action committee supporting Donald Trump's campaign.

The activist group Grab Your Wallet called on consumers to take their outdoors-brand shopping elsewhere, and company chairman Shawn Gorman tried to distance the company from the nation's polarized politics with a Facebook post. He stated, "L.L. Bean does not endorse political candidates, take positions on political matters or make political contributions. Simply put, we stay out of politics. To be included in this boycott campaign is simply misguided, and we respectfully request that Grab Your Wallet reverse its position."[28]

In less polarized times, the conflict might have died down then. But it did not. Trump tweeted a thank-you to Linda Bean and urged Americans, "Buy L.L.Bean." It was highly unusual, according to a presidential historian.[29] It meant the president-elect's supporters effectively were "buying products from L.L. Bean as a political statement," while the Maine-based company struggled to not serve "as a political football for hashtag activists."[30]

A more recent episode involved calls for a boycott and "die in" protests at Publix Super Markets after it was reported that the Florida-based company, its current and former executives, and its founders' heirs donated more than $670,000 in the past three years to Adam Putnam's gubernatorial bid. Putnam had described himself as a "proud NRA sellout." Publix initially insisted it was not giving financial support to the NRA; it ultimately said it would suspend political contributions to Putnam. One local newspaper editorial used the episode to denounce the corporation-fed "campaign swamp" in Florida.[31]

Backlash from the Right

Target, already stung by controversy years earlier, was perceived as taking a stand on a hot-button social issue in 2016 when it published a blog post stating its policy to welcome transgender people to use restrooms and fitting rooms matching their gender identity. Although other companies had similar policies in place, a conservative nonprofit, the American Family Association, quickly called for a boycott of Target. The retailer's policy "is exactly how sexual predators get access to their victims," the Christian group said.[32]

Protests and the boycott call had an impact. Executives at Target headquarters "scrambled to control the damage," according to The Wall Street Journal, "perplexed that they were pilloried for a policy common to retailers. Sales started to decline and have now in every quarter since." Ultimately, Target executives decided the bad publicity was "the tipping point for some stores" that were not inviting enough to customers or competitive enough. Target Chief Executive Brian Cornell, who did not approve the blog post, told staff later that the company had not adequately assessed the risk of the bathroom policy blog post, and the backlash that occurred was self-inflicted.[33]

In another instance, some of the best-known brands in the nation were listed for boycotts by Trump supporters in the period between Election Day 2016 and Inauguration Day 2017. They included PepsiCo, after its CEO talked critically about the election results with The New York Times; Oreos, because the company had shifted factories to Mexico; and Ben & Jerry's, for supporting the Black Lives Matter movement.[34]

These cases of backlash from both the right and the left illustrate how a brand can be placed at risk in today's plugged-in and fractured environment. Boycotts have escalated rapidly, and it appears the constellation of actions that can provoke them has expanded.

"What I think is constantly surprising is how polarized and divisive, certainly, the U.S. has become," Ken Kraemer, chief executive of the Deep Focus agency, told the New York Times.[35] "Brands are shifting from a world where they avoided politics at all costs, he said, to one where younger consumers want to know that their 'values are aligned.'"[36]

April 2016

Target is boycotted after implementing transgender bathroom & dressing room policy.

#GrabYourWallet is founded in response to *Access Hollywood* tapes.

October 2016

Peter Thiel donates $1.25 million to Trump campaign. **#BoycottPayPal** trends.

November 2016

New Balance VP of public affairs Matt LeBretton makes comments perceived to support Trump. Pictures of trashed New Balance sneakers circulate on social media.

Uber undercuts protests against Trump's "Muslim ban" by continuing service to LaGuardia Airport. #DeleteUber trends, and 500,000 users delete their accounts.

Starbucks announces it will hire 10,000 refugees. Conservatives **#BoycottStarbucks**. Liberals counter-protest with **#DrinkStarbucksToFightBigotry**.

January 2017

L.L. Bean is boycotted after Linda Bean's personal donation supporting Trump.

NYT runs story about Bill O'Reilly's sexual harrassment settlements. **#DropOReilly** trends, prompting companies to pull their ads.

April 2017

Pepsi ad percieved to trivialize #BlackLivesMatter sparks widespread online criticism.

August 2017

PayPal suspends service to two groups identified as hate groups by Southern Poverty Law Center. Conservatives boycott. At least one group is reinstated.

Papa John's CEO John Schnatter blames low earnings on NFL **#TakeAKnee** protests. As consumers list reasons they don't buy Papa John's on social media, the share price drops 9%.

November 2017

Sean Hannity supports Roy Moore's U.S. Senate campaign. Keurig pulls ads from his show. **#BoycottKeurig** trends as Hannity fans destroy their coffee makers.

February 2018

Publix gives $670,000 to Adam Putnam, a "proud NRA sellout." **#BoycottPublix** leads to protests.

March 2018

Laura Ingraham mocks Parkland survivor David Hogg. Hogg encourages his 700,000+ Twitter followers to urge her advertisers to pull ads. At least 15 do.

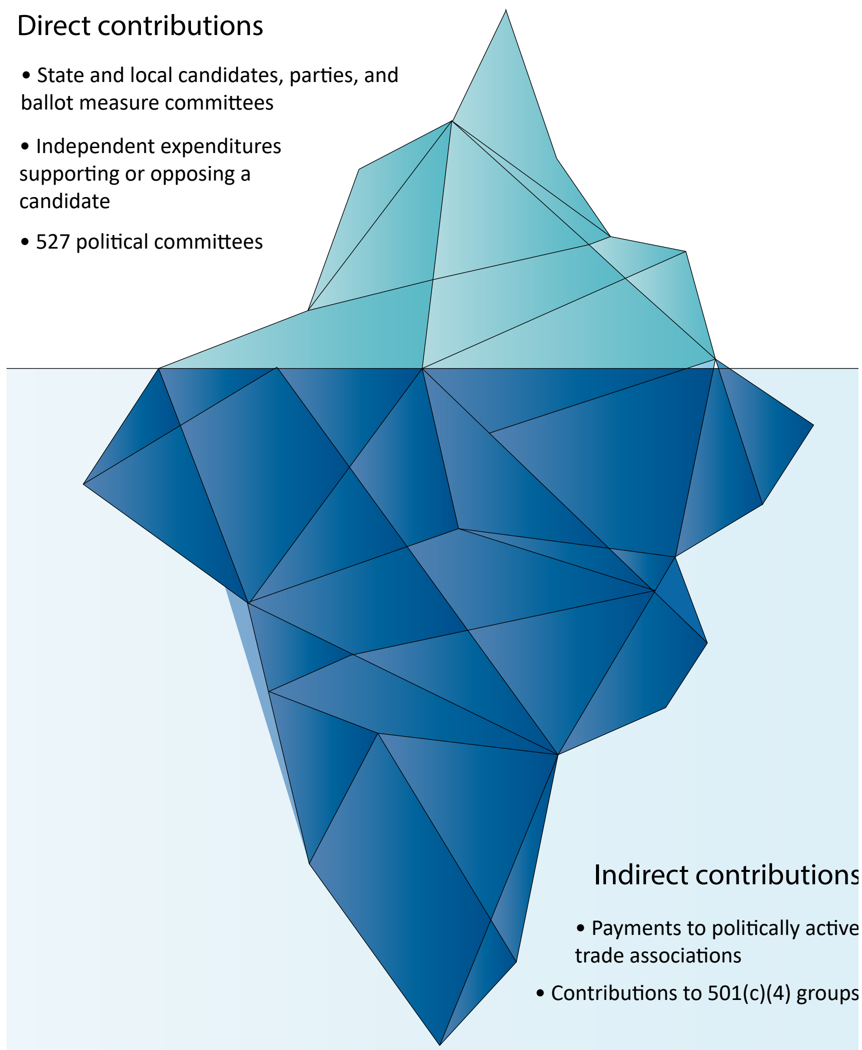
May 2018

Following Parkland, FL school shooting, survivors get **#BoycottNRA** trending. Over a dozen companies cut ties with the NRA.

The Corporate Political Money 'Iceberg'

Exactly how much do U.S. corporations spend, directly and through third-party groups such as trade associations and so-called "social welfare" nonprofit organizations, to influence elections across the nation? Because many politically active groups are not required under U.S. law to disclose their donors, the millions they spend in "dark money" cannot be traced to their sources.[37] And in the post-*Citizens United* era, anonymous spending has increased through a proliferation of dark money conduits and even pop-up entities that can be created, and dissolved, with just a few keystrokes.

It is therefore impossible to measure precisely how much money corporations invest in federal, state and local politics. What is possible, however, is gauging the scale and significant impact of business expenditures on politics.



U.S. Elections

At the federal level, publicly reported data gathered by the nonpartisan Center for Responsive Politics on political action committee (PAC) spending by business, labor, ideological and other groups shows business to be the dominant source of political money in election cycle after election cycle. Though it is only one category of political money, PAC activity provides a valuable indicator of major players' spending levels.

Between the 2008 and 2018 election cycles, business PACs accounted for between 68.6 percent ($310 million in 2009-10) and 72.8 percent ($379 million in 2013-14) of all PAC spending in federal elections.[38] Business "has a more than 3-to-1 fundraising advantage" over labor unions in PACs delivering funds, according to CRP.

For almost four decades, PACs have provided a significant source of direct contributions, especially to congressional campaigns.[39] A more recent, and important, shift is the dramatic increase in the influence of outside spending following *Citizens United* and other court decisions.

These outside expenditures are "made by groups or individuals independently of, and not coordinated with, candidates' committees," according to CRP.[40] "Groups in this category range from conventional party committees to the more controversial super PACs and 501(c) 'dark money' organizations,' nonprofits given that name for their designation under the tax code."[41] These latter groups are permitted to spend unlimited funds from unrestricted sources, including corporations.

By 2016, more than one dollar out of five spent in connection with presidential and congressional campaigns came from "committees and groups with access to unlimited and unrestricted sources of funds," CRP reports.[42] Secrecy has increased, CRP says: "A system founded on the principle of individuals giving limited, disclosed contributions directly to candidates, parties and PACs has morphed into a system that allows individuals and organizations to give hundreds of thousands, or even millions of dollars, to groups to spend in elections, some of whom are closely aligned with candidates and parties, without disclosure."[43]

State Elections

Few recent events better illustrate the central importance of corporate money to influencing state capitals than what The Washington Post labeled "a stunning political coup" after Barack Obama's 2008 presidential victory that "helped dispirited Republicans claw back into power one statehouse at a time."[44]

A review of campaign finance reports showed that leading corporations and trade associations contributed millions of dollars to a little-known independent group called the Republican State Leadership Committee (RSLC),[45] aimed at winning selected legislative races and taking control of state legislatures and the redistricting process following the 2010 census.

The far-reaching success of REDMAP, as the campaign was called, was described in a New Yorker article: "All told, in 2010 Republicans gained nearly seven hundred state legislative seats, which, as a report from REDMAP crowed, was a larger increase 'than either party has seen in modern history.' The wins were sufficient to push twenty chambers from a Democratic to a Republican majority. Most significantly, they gave the G.O.P. control over both houses of the legislature in twenty-five states. … The blue map was now red."[46]

In 2012, new political maps crafted in state legislatures yielded GOP gains in Congress even though the Democratic president, Barack Obama, won re-election. "Despite the fact that Democrats won more than 1 million more votes than Republicans in House races around the country, the GOP scored a 33-seat majority in the 113th Congress," according to the Washington Post.[47]

Corporations helped fuel the REDMAP drive. The author of a new book about REDMAP, David Daley, says that when political operative Ed Gillespie took charge of the RSLC, Gillespie expanded its targets "from direct-mail small-fry to boardroom big-shots."[48] With the first two PowerPoints Gillespie took on the road,[49] he looked to "reel in $30 million" from such deep-pocketed donors as "Big Oil, Altria, Walmart, AT&T and the U.S. Chamber of Commerce." Well after the victorious election, according to Daley, Gillespie's final talking point before a gala at a company headquarters would thank "corporate members for their investment. We did not spill a drop, [and] made maximum impact."[50]

"Money does not always dictate election outcomes, yet it can make a great difference when strategically invested."

Among large RSLC donors in the 2010 cycle were Altria, $1,434,000; Verizon, $526,000; AT&T, $375,500; Walmart, $273,500; Comcast, $241,000; Eli Lilly, $220,000; Citigroup, $205,000; the U.S. Chamber of Commerce, $3,980,000; and Pharmaceutical Research and Manufacturers of America, $302,500. Legislatures taken by Republicans in 2010 included North Carolina, Indiana, Alabama, Wisconsin, Pennsylvania, Ohio and Michigan.

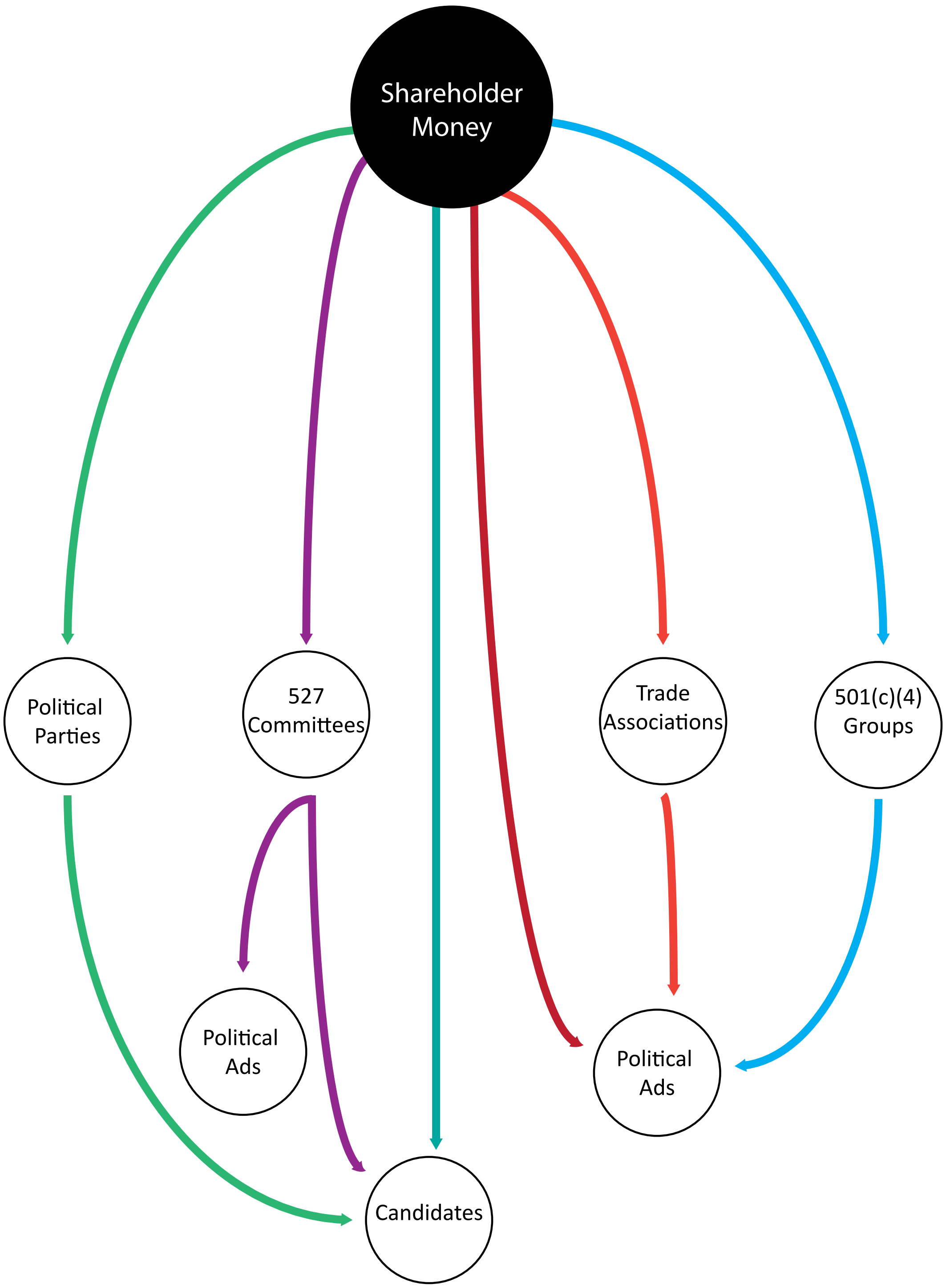
Also funded by U.S. corporations have been rival groups devoted to supporting Democratic and Republican gubernatorial candidates. According to a Wall Street Journal report last year, "U.S. companies have found a loophole in state campaign finance rules by funneling donations aimed at helping candidates" through these entities.[51] Across the past decade, the newspaper said, "42 S&P 500 Index companies gave donations of $100,000 or more to the" Republican Governors Association or Democratic Governors Association.

In states with limits on corporate contributions, the governors' associations have been used to work around these limits by raising money in large sums and making contributions to a state committee or a governor's campaign.

Election Spending and Public Policy

According to Jacob Hacker, Stanley B. Resor Professor of Political Science at Yale University, the real extent of corporate political spending is unknowable because of large swaths where disclosure is not required, and the totals are thus much greater than what is reported publicly. He likened this spending, much of it invisible, to an iceberg.[52]

Money does not always dictate election outcomes, yet it can make a great difference when strategically invested – as the REDMAP strategy shows. It also plays an important role in policy-making, which is often overlooked. Veteran campaign finance observer Eliza Newlin Carney explained in 2016, "As a long list of self-financed millionaires can attest, having the biggest wallet is no guarantee of success. And as election lawyer and author of the recent book Plutocrats United Richard Hasen has noted, the real issue is not just how money boosts political candidates, but how it helps big donors in the tax breaks, contracts, and policies they seek."[53]


Shareholder Money
Political Parties
527 Committees
Trade Associations
501(c)(4) Groups
Political Ads
Political Ads
Candidates

Unintended Consequences of Company Political Spending

Considering the millions of dollars invested by companies in political expenditures and today's hair-trigger media and political environment, inherent risk is exacerbated if company spending appears to clash with core values and positions. For dozens of U.S. companies, such political spending in recent years has led to unintended consequences, unwanted publicity and unanticipated risk.

A high-profile instance unfolded in North Carolina, where a national uproar rocked the state over a law that banned antidiscrimination protections based on sexual orientation. That law, widely known as the HB2 "bathroom bill," was enacted in 2016. It was ultimately repealed in 2017 after controversy that included sharp criticism from leading corporations and economic boycotts or freezes. Along the way, some of the same corporations that spoke out were themselves called out for past donations supporting politicians who contributed to enacting the controversial law.

"'Corporations Opposed To North Carolina's Anti-LGBT Law Helped Elect its Supporters,' trumpeted a Huffington Post headline in April 2016."

Companies and LGBT Rights in North Carolina

When Republicans won control of the North Carolina General Assembly in 2010, it was the first time since Reconstruction that voters gave them control of both chambers.[54] Two years later, when voters chose Pat McCrory as their governor, it was the first time in more than 100 years that the GOP controlled both the legislature and governor's office.[55]

In the wake of the U.S. Supreme Court's legalizing same-sex marriage in 2015, legislators in a number of states pushed back. North Carolina became a battleground in the nation's culture wars after the legislature passed HB2 in March 2016, and McCrory, a champion for the legislation,[56] signed it into law. It prohibited transgender individuals from using bathrooms in publicly owned buildings that corresponded to their gender identity, and it blocked local governments from enacting their own anti-discrimination and minimum wage laws.

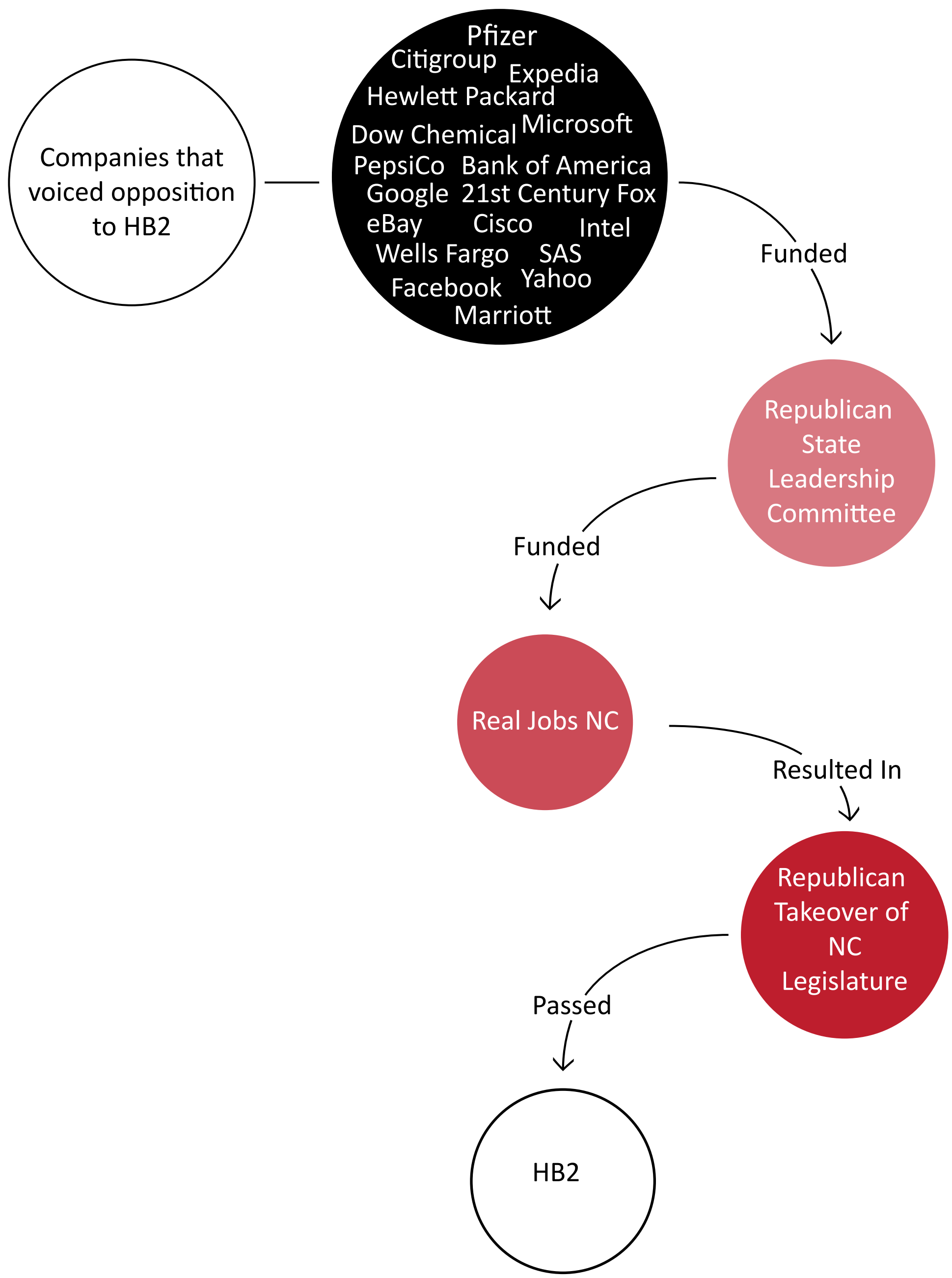
A backlash erupted over a measure that critics scored as "intolerant, anachronistic and contrary to generations of political moderation," according to The New York Times.[57] The backlash included more than 200 corporate CEOs joining a Human Rights Campaign letter demanding repeal of the law.[58] And some journalists quickly examined political spending that had paved the way for enactment of HB2.

"Corporations Opposed To North Carolina's Anti-LGBT Law Helped Elect its Supporters," trumpeted a Huffington Post headline in April 2016. It highlighted the role of the Washington-based Republican State Leadership Committee (see Chapter III of this report) in helping to change the General Assembly from Democratic to Republican control in the 2010 election:

"This group, which can receive direct corporate contributions, works to elect Republican state legislatures across the country. It played a big part in helping to elect North Carolina's legislative majority in 2010 and has pumped at least $1.6 million into the state's legislative elections from 2010 through 2015."[59] The RSLC funneled $1.25 million in 2010 to a group called Real Jobs NC, spending that "was instrumental in electing the state's current

Republican majority."[60] And there were 45 corporations, including "some of the biggest names in corporate America," that "sent money to the RSLC and also voiced opposition to the laws [passed by] the legislators that money helped elect. … Many more fund trade associations that give money to the RSLC."[61]

Also coming under scrutiny in a separate report were leading companies that gave money to the Republican Governors Association, which invested more than $4.9 million on advertising in support of McCrory in the 2012 election cycle.[62]



Companies and Mississippi's 'Religious Freedom' Law

The Mississippi legislature passed in 2016 the "Protecting Freedom of Conscience From Government Discrimination Act," or HB 1523. It allows businesses and government officials to deny, based on religious objections, services to LGBT people. The statute has come under heavy criticism and court challenge, although it still stands. Some corporations that opposed HB 1523 have attracted scrutiny for their donations to groups that helped elect the bill's sponsors and Gov. Phil Bryant, who signed it into law.

"In all, 24 companies publicly opposing HB 1523 either directly supported Bryant and state House sponsors via campaign donations, indirectly helped them by making donations to outside political spending groups that funneled money back into state elections, or both. In all, the anti-HB 1523 companies donated almost $14.6 million to help elect pro-HB 1523 politicians,"[63] according to Facing South.

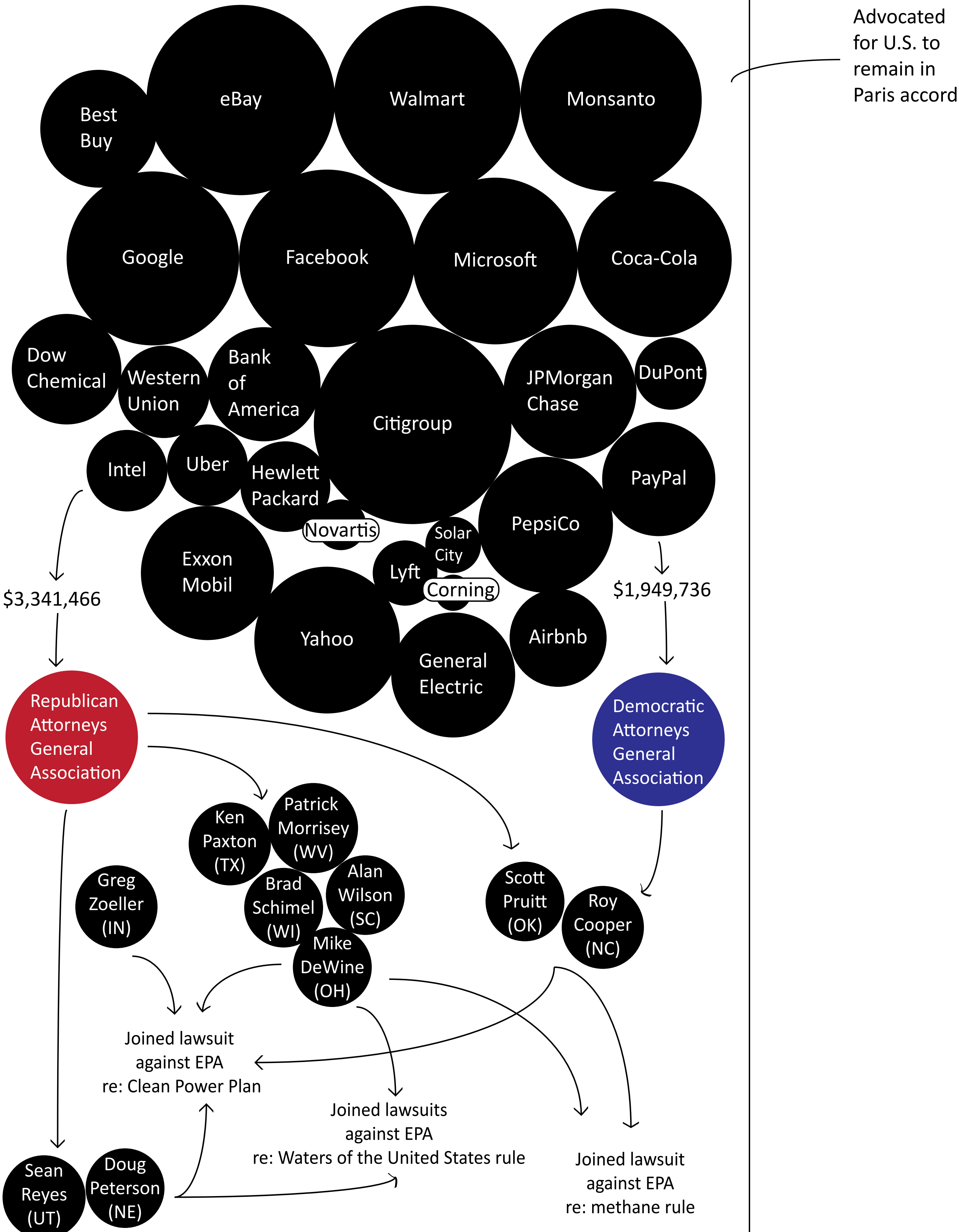
Company Conflicts Over Climate Change

A number of leading U.S. companies that spoke out in favor of preserving the United States' role in the Paris climate accord subsequently faced blunt questioning in a Center for Public Integrity article. "These companies support climate action, so why are they funding opposition to it?" demanded the headline.[64] When Mother Jones published the same article, the magazine's headline declared, "These Companies Support the Paris Agreement. They Also Support Climate Deniers."[65]

President Trump announced in June 2017 the nation's withdrawal from the landmark international accord to reduce carbon emissions. The Center for Public Integrity article juxtaposed statements by 27 companies in favor of maintaining the U.S. role with their multimillion-dollar "support of a GOP group that's fought to undo a key Obama-era domestic climate initiative,"[66] the Clean Power Plan. This regulation was directed at curbing planet-warming emissions from coal-fired power plants, and it was viewed as an important part of the Paris agreement strategy.[67]

"These companies' donations of more than $3 million to the Republican Attorneys General Association over the past three-and-a-half years speaks … to the difficulties for corporations trying to navigate the political system in a country that's polarized – particularly on climate change," CPI reported.[68] "Nearly all the Republican attorneys general sued in 2015, alongside fossil fuel groups, to quash the power plan," and several Democratic attorneys general also sued.[69] After the U.S. Supreme Court temporarily blocked the regulatory effort, the Republican attorneys general group boasted that its top accomplishment was "[c]onvincing the U.S. Supreme Court … 'to halt implementation of Obama's signature climate change initiative.'"[70]

Of the companies spotlighted by CPI, 23 collectively donated $1.9 million to a similar organization sponsored by Democrats, the Democratic Attorneys General Association, during the same period.



Advocated for U.S. to remain in Paris accord
Best Buy
eBay
Walmart
Monsanto
Google
Facebook
Microsoft
Coca-Cola
Dow Chemical
Western Union
Bank of America
Citigroup
JPMorgan Chase
DuPont
Intel
Uber
Hewlett Packard
PayPal
Novartis
Solar City
PepsiCo
Exxon Mobil
Lyft
Corning
$3,341,466
$1,949,736
Yahoo
General Electric
Airbnb
Republican Attorneys General Association
Democratic Attorneys General Association
Ken Paxton (TX)
Patrick Morrisey (WV)
Greg Zoeller (IN)
Brad Schimel (WI)
Alan Wilson (SC)
Scott Pruitt (OK)
Roy Cooper (NC)
Mike DeWine (OH)
Joined lawsuit against EPA re: Clean Power Plan
Joined lawsuits against EPA re: Waters of the United States rule
Joined lawsuit against EPA re: methane rule
Sean Reyes (UT)
Doug Peterson (NE)

Companies and Political 'Resegregation'

The political "resegregation" of the United States is under way through the redrawing of state legislative and U.S. congressional district maps in Republican-controlled state legislatures, Mother Jones magazine reported in 2014.[71] For example, it said, in North Carolina, Pennsylvania, and Ohio, Republicans "have recast state and congressional districts to consolidate black voters into what the political pros call 'majority-minority districts' to diminish the influence of these voters."[72] Republicans captured control of each of those state legislatures in the 2010 election.

Mother Jones placed blame on the RSLC and questioned the consistency of numerous U.S. companies that "underwrite the RSLC's efforts to dilute the power of black voters, [even as] many of them preach the values of diversity and inclusion on their websites and in corporate reports."[73] The magazine also published a partial list of RSLC donors; the sums each had donated to the group in the past four years; and diversity statements from the companies.

State and federal courts, meanwhile, have declared some redistricting maps drawn since 2010 in North Carolina, Pennsylvania, and Alabama, to be unconstitutional.

"[W]e foster diversity and inclusion among our workforce, consistent with our leadership responsibilities and core values."
***$2,682,350** to RSLC*

Altria Group

"We see diversity as a source of strength."
***$764,328** to RSLC*

Citigroup

"AT&T's 134-year history of innovation is a story about people from all walks of life and all kinds of backgrounds coming together to improve the human condition. It is our diversity, coupled with an inclusive culture that welcomes all points of view, which makes us who we are: a great place to work, a desired business partner and a committed member of the communities we serve."
***$922,993** to RSLC*

AT&T

"We recognize, celebrate, and support diversity and inclusion, which is at the very heart of our culture."
***$598,053** to RSLC*

Comcast

"Devon believes diversity, the collective mixture of similarities and differences of our employees, is a valued asset."
***$1,450,000** to RSLC*

Devon Energy

"Diversity has been at the core of our culture since Sam Walton opened our doors in 1962…We can only help our associates, customers and partners live better if we really know them. And that means understanding and respecting differences and being inclusive of all people."
***$979,429** to RSLC*

Walmart

"Let's get there together—with one perspective we can go far, with many perspectives we can move beyond all limits. Join an organization that values diversity."
***$4,655,322** to RSLC*

Blue Cross Blue Shield

"Reynolds American and its operating companies have long recognized, valued and enjoyed the many benefits that diversity brings to both our employees and our businesses. Our commitment to diversity is a strong demonstration of the core values that our companies share."
***$3,419,781** to RSLC*

Reynolds American

"Diversity and inclusion programs can provide valuable resources to recruit and retain a strong employee base that will generate novel ideas."
***$9,077,760** to RSLC*

US Chamber of Commerce

Contraceptive Makers and Reproductive Rights

The Huffington Post delivered unwanted publicity for key contraceptive manufacturers when it published a MapLight article with this headline: "Contraceptive Makers Helped Elect Republican Congress Ready To Defund Planned Parenthood/The top manufacturers of contraceptive pills and devices are among the world's biggest drug companies."[74]

Through their political action committees (PACs), six leading manufacturers of birth control pills and contraceptive devices gave a collective $1.9 million to Republican House and Senate candidates in 2015-16, and at least $562,000 to the U.S. Chamber of Commerce in 2015.[75] The Chamber, in turn, spent $29 million in 2015-16 to support Republican congressional candidates, "many of them staunch conservatives who vowed to defund Planned Parenthood and support Supreme Court nominees willing to overturn Roe v. Wade."[76]

Two large sellers of contraceptives were singled out by a home-state newspaper, meanwhile, for helping "elect Republican governors and legislatures trying to restrict funding for birth control."[77] NJ.com explained in December 2016: "Johnson & Johnson and Merck & Co. and their trade association contributed more than $4 million from 2011 to 2016 to the Republican Governors Association and the Republican State [Leadership] Committee . ... These groups helped secure GOP majorities in 14 states that from July 2015 to July 2016 tried to exclude groups such as Planned Parenthood from receiving funds for family planning or related expenditures, according to the Guttmacher Institute . ... Only court intervention prevented some of those bans from going into effect."[78]

In a similar vein, Bloomberg News Service reported in 2012, "The Pharmaceutical Research and Manufacturers of America, which counts four of the seven biggest sellers of birth control drugs and devices among its members, gave $4.8 million in 2010 to Republican-leaning nonprofits that helped elect 23 lawmakers, all of whom later voted to limit access to birth control and reduce federal funding for it.

"Companies need to be asking themselves about consequences that could be damaging to their brand"

"Those companies earned $1.7 billion selling contraceptives, potentially putting themselves in the position of hurting their own bottom lines by backing politicians looking to eliminate a revenue source for sales."[79]

What Companies Say

When asked by media and watchdogs about apparent conflicts between their political spending and core values, companies have given varying answers. They discussed having a seat at the table and in some cases giving money to both sides to influence policy outcomes; paying "dues" to belong to a political group and educate elected officials; and the pragmatic difficulties of achieving perfect alignment.

The following excerpts from company statements offer a representation of their answers to media and watchdogs.

From Huffington Post on North Carolina's HB2: "'As a global company, it's imperative that we have strong relationships with elected officials that span party-lines, as they work with us to create positive business outcomes around the world,' said a statement from Hewlett-Packard, which has donated $428,365 to the RSLC since 2009. 'We stand firmly by our opposition to HB2 and by our non-discrimination policy.'"[80]

From MapLight on contraceptive makers: "'Our company is committed to participating constructively and responsibly in the political process, which includes providing support to the U.S. Chamber of Commerce and through the nonpartisan Merck political action committee (PAC),' Claire Gillespie, a Merck spokesperson, said in a statement. 'The PAC supports legislators from both major parties who understand and appreciate the work we do to discover and develop medicines and to make them available to the patients who need them.'"[81]

"'The Chamber has never taken a position on Planned Parenthood or abortion, nor do those issues play any role in which candidates we support,' Blair Holmes, a Chamber spokesperson, told MapLight. 'Our focus is growing the economy and creating jobs through sound policy.'"[82]

From Huffington Post on North Carolina's HB2: "Cisco Systems, which gave $50,000 to the RSLC in September, says that the company 'has maintained memberships in associations for many years. Our involvement has never been about any specific party or candidate. We use our memberships to educate members on issues of importance to the tech industry and we request our funds be directed towards non-political purposes.'"[83]

From NJ.com on contraceptive makers: "Ernie Knewitz, a spokesman for Johnson & Johnson, cited the policy outlined on the company's website. 'We do not expect candidates who receive contributions from our employee political action committee or our company to agree at all times with our positions on policy issues."[84]

From the Center for Public Integrity on climate change: "For Coca-Cola, which gave just over $200,000 to the Republican group and about $75,000 to the Democratic group between 2014 and mid-2017, political donations aren't earmarked to support all the policy positions held by recipients. 'Our goal is not perfect philosophical alignment,' the company said."[85]

Companies at a Tipping Point

Will the unintended consequences of political spending cause damage to a corporation's reputation? What expenditure or pattern of company political spending will spark a blaze of adverse publicity, or perhaps a boycott, that races through the Internet faster than a California wildfire?

Companies that spend to influence elections are at a tipping point. In today's highly volatile environment, corporations are vulnerable to serious risk if political contributions or their outcomes, or both, are perceived to be at odds with their core values. This can affect a company's relationship with customers, employees and communities in which it located. Peril lies ahead, according to corporate governance experts from the business world and academia. This chapter will highlight the concerns and then offer recommendations for companies to assess and mitigate this exacerbated risk.

Corporate Insiders: Serious Risk Looms

Corporate leaders interviewed by the Center for Political Accountability voice growing sensitivity to recent shifts in public opinion about companies' political and civic engagement, about boycotts in an increasingly politicized marketplace and about consumers associating their advertising with controversial media opinion or content.

"The expectations at large are shifting of what it means to be a responsible corporate citizen," said a senior ethics lawyer for a corporation in the top tiers of the Fortune 500.[86] His employer, he said, "has become much more sensitive about conflicts between its contributions and its values and brand."

At a major business association, a corporate governance expert concluded that political spending poses a risk similar to that posed by company advertising on controversial platforms. In one of the most high profile instances of companies responding to the latter threat, more than a dozen advertisers launched a boycott of Laura Ingraham's Fox News show after she criticized a survivor of the Parkland school massacre.[87]

Regarding political spending, "companies need to be asking themselves about consequences that could be damaging to their brand," the expert said. In a critique of companies startling for its scope, he added, "A majority of political spending by companies is at odds with where the country is and with company CSR (corporate social responsibility) policy. Companies need to hold their political spending to the same type of metrics that they apply to other activities."

The former head of a major company's Washington, D.C. office said his employer recognized that misalignment of company values and political spending posed a serious risk, and it was widely acknowledged that the company "could not be concerned about sustainability and then take positions opposed to that."

Given "more tribal" politics in the nation, the raging culture wars, a concern by millennial employees for solving societal problems, and the potential impact of social media – "Your reputation can be compromised within minutes" – he said that for companies, today's new environment is far more challenging.

A corporate secretary said companies won't find "100 percent agreement" with any recipient of a political contribution. She added, "You need to do an analysis that asks, what are you getting out of this [expenditure]? What are the risks? If it's so against your [company's] values it's material, then you have to stop."

The View from Academe: Heightened Risk

Business scholars interviewed by CPA also agree that companies deciding to contribute political money today face elevated risk.

"As politics, parties and candidates become more associated with social and cultural issues, the risks become heightened. When you give to a party or candidate, you're buying into a package. Now, elements of that package could be abhorrent. You're bound to anger somebody," observed Maria Patterson, Clinical Assistant Professor of Business at New York University's Stern School of Business.[88]

Applying a broad prism, Harvard Business School Professor Nien-he Hsieh, who focuses on ethical issues in business and the responsibilities of global business leaders, said, "There's a growing lack of trust in business and public institutions. How can companies think about restoring trust in business and public institutions?[89]

"Companies need to think about how to maintain that trust in institutions – public, private and corporate. My worry is that political spending feeds into the public's view that the system isn't functioning."

"Companies need to be consistent with their mission statement in their political spending."

Ann Skeet
Santa Clara University

A wider issue raised by some academics is whether companies should spend. "Companies are vulnerable out of the gate for engaging in political spending," said Ann Skeet, Senior Director of Leadership Ethics at the Markkula Center for Applied Ethics of Santa Clara University.[90] "Companies have a conflicted seat at the table. They are looking at their political contributions through a single lens, and not looking back to the company mission statement. Companies need to be consistent with their mission statement in their political spending," she cautioned.

"Reputational risk follows corporate political spending."

William S. Laufer
University of Pennsylvania

Skeet suggested that an argument could be made in the current climate that companies should not participate in political spending at all, and "I would make that argument."

So would William S. Laufer, Julian Aresty Professor of Legal Studies & Business Ethics, Sociology, and Criminology at The Wharton School of the University of Pennsylvania. He saw company reputation and political spending as incompatible. "Reputational risk follows corporate political spending," he said. "The more companies experience reputational consequences the less they will spend." He also expressed concerns that companies would try to protect their reputations by redirecting but not significantly changing their political spending. This could include shifting to conduits where disclosure was not required, thus hiding spending and possible conflicts.[91]

Recommendations, Assessing and Mitigating Risk

Threat? Or opportunity?

Companies inherently face risk when they embark on political and civic engagement.[92] Yet they have a choice of navigating the newest political terrain either carefully and deliberately, or hastily and without strong governance procedures. When companies map their course to avoid a collision between core values, brand, and political spending, it will reflect on their reputations and character.

Aligning Political Spending and Core Values

Companies can address loss of trust and mitigate heightened risk by adopting transparency and accountability policies and practices for their political spending.[93] For 15 years, CPA has advocated these steps. Today, as Chapter IV's accounts of unintended consequences indicate, it is more important than ever for companies to act to bring their political spending into alignment with their values, brands and policies. Because numerous companies have gotten more engaged at a time of intensely polarized politics, their vulnerability to reputational and financial risk has grown.

In its Handbook on Corporate Political Activity, The Conference Board spells out fundamentals of decision-making about political participation:

"Regardless of a company's level of involvement, the decision to participate in a political campaign or promote a political cause should be supported by a solid business rationale and aligned with the company's values and policies. To that end, expenditures should be assessed on the basis of the answers to the following two questions:

"Can a strong case by made that the spending advances the corporation's key business objectives?

"Does the spending threaten the company's reputation or expose it to unnecessary risks?"[94]

Recommendations for Boards

The Conference Board issued its Handbook the year the Supreme Court decided *Citizens United*, which allowed corporations to draw money from their own treasuries to finance political advertising. To help corporate boards dealing with the new regulatory landscape as they make decisions concerning political spending that are consistent with company strategies, policies, and values, and that mitigate risks as much as possible, CPA co-authored in 2015 with Constance E. Bagley, a Senior Research Fellow at Yale School of Management, a guide published in the Harvard Business Review.[95] The guide encourages directors to weigh each of the following key questions: "Should we engage in political spending? Should we disclose that spending? How do we provide oversight?" The following key recommendations are excerpted from the Review's "Board Member's Guide to Corporate Political Spending":

"[Companies] have a choice of navigating the newest political terrain carefully and deliberately or hastily and without strong governance procedures."

Directors need to know and understand the:

- "Kinds of risks posed by political spending.
- "Red flags, such as failure to follow company policies on making contributions; contributions that conflict with company values, positions or business strategies [both short-term and long-term]; contributions that hint of quid pro quos for political favors; and changes in company spending patterns."

Directors need to set clear and concise policies that:

- "Specify what kinds of political spending the company will, or will not, engage in.
- "Outline decision-making procedures management is required to follow regarding political spending, including a requirement that these decisions be broadly discussed within the executive suite before the company makes a political contribution or expenditure.
- "Require disclosure of any political spending. …Transparency is broadly accepted today as part of good corporate governance, as seen in the steady increase of companies adopting disclosure and accountability policies.[96] The Business Roundtable, a group that represents the CEOs of major U.S. corporations, wrote in its 2016 "Principles of Corporate Governance," "To the extent that the company engages in political activities, the board should have oversight responsibility and consider whether to adopt a policy on disclosure of these activities."[97]
- "Provide for board oversight of political spending, including semi-annual reports made to a specified board committee (comprising independent directors) and, at a minimum, an annual review by the full board.
- "Require third-party groups to report to the specified board committee how they plan to use the company's money and to identify their other contributors. To evaluate risks, directors need to know how the company's money will be used and with whom the company is being associated."[98]

Director-executed political spending review should include:

- "Determining the impact of political spending on stakeholders, the firm's longterm interests, on broader issues in which it may have a stake, and the needs of the society which the company operates."

Due Diligence for Giving to Third-Party Groups

CPA's recommendation about companies donating to third-party groups is particularly relevant to avoiding a collision between company values and political spending. In recent election seasons, there have emerged new political players, shadowy advocacy organizations, newly minted trade associations, and Super PACs devoted to the election of a single candidate. They are parts of a large collection of intermediary organizations whose use is "for many if not most corporations, the preferred way to participate in electoral politics," according to a working paper by scholars.

For companies, the dangers of supporting third-party advocacy organizations are qualitatively different than traditional support of candidates and political parties, avenues where risks can be more easily assessed. The following analysis by CPA was published in The Conference Board Review several years ago and seemingly anticipates some of the cases spotlighted in Chapter IV:

"When a company contributes to one of these outside groups, it cedes control over the use of its funds while remaining accountable to its customers, shareholders, and employees on how the money is eventually spent. These third-party groups determine how the money is used; they control the message and decide which candidates to support. A contributor's own goals and intentions can be easily ignored. Lacking basic internal controls and external accountability, the groups spend as they please."

This is a problem companies face when they route their political spending through trade associations and political committees, including state legislative campaign committees and the governors and attorneys general associations, as discussed earlier in this report.

Epilogue: When Companies Take a Stand

The public's diminished trust in business is hardly surprising when a cascade of bad news and attacks is considered: the Panama Papers and Paradise Papers; Sen. Bernie Sanders' declaring that "The business model of Wall Street is fraud;"[99] President Trump's frequent attacks on leading U.S. companies from his Twitter account; the Facebook user data scandal; and the Wells Fargo fraudulent account saga.

And it is part of a far broader picture. An executive summary for the 2018 Edelman Trust Barometer stated, "In a year marked by turbulence at home and abroad, trust in institutions in the United States crashed, posting the steepest, most dramatic general population decline the Trust Barometer has ever measured." The authors continued, "It is no exaggeration to state the U.S. has reached a point of crisis that should provoke every leader, in government, business, or civil sector, into urgent action."[100]

"These issues speak definitely to the character of a corporation -and its leaders- in the 21st century."

Daniel T. Bross
Former Senior Director of Corporate Citizenship, Microsoft

Summed up President and CEO Richard Edelman, "There are new expectations of corporate leaders. Nearly 7 in 10 respondents say that building trust is the No. 1 job for CEOs, ahead of high-quality products and services. Nearly two-thirds say they want CEOs to take the lead on policy change instead of waiting for government, which now ranks significantly below business in trust in most markets."[101]

Businesses clearly have avenues to regain public trust. This report has focused on one avenue that has gained little prior attention: How public corporations can adopt robust governance measures for election-related spending and use them to avert potential embarrassment or even reputational and financial damage resulting from a collision between core values, brand, and political money.

In the crucible of a high stakes election year with increasing pressure on corporations to make political expenditures, this report is intended to illuminate an opportunity for businesses and to contribute to restoring trust in core institutions. The opportunity awaiting companies was summed up by retired Microsoft executive Daniel T. Bross, when he wrote:

"America's leading companies are speaking out on issues central to their values, fundamental to business success, and rooted in a commitment to enhancing global sustainability. Yet it is important that companies continue to fulfill their responsibility to adopt and advance strong corporate governance policies and practices for participation in the political process. These issues speak definitely to the character of a corporation – and its leaders – in the 21st century."[102]

Endnotes

1. Thomas J. Donahue, President and CEO, U.S. Chamber of Commerce, 2018 State of American Business Address (Jan. 10, 2018) (transcript available at www.uschamber.com/speech/2018-state-american-business-address).

2. Sapna Maheshwari, *Pizza Is Partisan, and Advertisers Are Still Adjusting*, N.Y. Times, Nov. 19, 2017, www.nytimes.com/2017/11/19/business/media/advertisers-partisan-politics.html.

3. Tracy Staton, *Senator, Launching Probe into Novartis' Deal with Cohen, Calls Contract a 'Corporate Shakedown,'* FiercePharma, May 11, 2018, www.fiercepharma.com/pharma/senator-launching-probe-into-novartis-deal-cohen-calls-contract-a-corporate-shakedown.

4. Michael Hiltzik, Op-Ed., *Heads Should Roll over the AT&T and Novartis Payments to Michael Cohen's Slush Fund*, Los Angeles Times, May 9, 2018, www.latimes.com/business/hiltzik/la-fi-hiltzik-att-slush-20180509-story.html.

5. Constance E. Bagley, Bruno Cova & Lee D. Augsburger, *How Boards Can Reduce Corporate Misbehavior*, Harvard Bus. Review, Dec. 21, 2017, hbr.org/2017/12/how-boards-can-reduce-corporate-misbehavior.

6. *See infra* at 8.

7. THE BUSINESS ROUNDTABLE, STATEMENT ON CORPORATE RESPONSIBILITY 14 (1981), *available at* files.constantcontact.com/36e668d2701/58a80e78-1266-49d9-a617-386657f6754b.pdf.

8. Donahue, supra note 1.

9. EDELMAN, EDELMAN TRUST BAROMETER: GLOBAL REPORT 11 (2018), *available at* cms.edelman.com/sites/default/files/2018-01/2018%20Edelman%20Trust%20Barometer%20Global%20Report.pdf.

10. PUBLIC AFFAIRS COUNCIL & MORNING CONSULT, PUBLIC AFFAIRS PULSE SURVEY 1 (2017), *available at* pac.morningconsultintelligence.com/pac-pulse-2017-report.pdf.

11. David Gelles, *Businesses Look at Washington and Say, 'Never Mind, We'll Do It,'* N.Y. Times, Feb. 1, 2018, www.nytimes.com/2018/02/01/business/businesses-washington-public-policy.html.

12. Maheshwari, *supra* note 2.

13. Annual letter from Larry Fink, Chairman and CEO of BlackRock, Inc., to CEOs (2018), *available at* www.blackrock.com/corporate/investor-relations/larry-fink-ceo-letter.

14. Aaron K. Chatterji, Op-Ed., *Our Newest Culture Warriors: Activist C.E.O.s*, N.Y. Times, Mar. 2, 2018, www.nytimes.com/2018/03/02/opinion/dicks-guns-walmart.html.

15. John Ortved, *Finding the Right Corporate Message Isn't Always Easy*, N.Y. Times, Mar. 30, 2018, www.nytimes.com/2018/03/30/business/finding-the-right-corporate-message-isnt-always-easy.html.

16. Cleve R. Wootson, Jr., *David Hogg Rejects Laura Ingraham's Apology: 'A Bully Is a Bully,'* Wash. Post, Apr. 1, 2018, www.washingtonpost.com/news/arts-and-entertainment/wp/2018/03/31/laura-ingraham-takes-an-easter-break-amid-david-hogg-controversy-and-advertiser-revolt/?noredirect=on&utm_term=.4b33f4b25242.

17. DELOITTE, GLOBAL SURVEY ON REPUTATION RISK 2 (2014), *available at* www2.deloitte.com/content/dam/Deloitte/pl/Documents/Reports/pl_Reputation_Risk_survey_EN.pdf.

18. Mike Allen, *1 big thing: United States of Corporate America*, Axios AM, Feb. 25, 2018, www.axios.com/newsletters/axios-am-b6adbfce-9e45-4a2e-a3fb-966e7b1472fe.html.

19. *See infra* at 10 (Perceived Political Activity Ignites a Backlash).

20. Rachel Leven & Jamie Smith Hopkins, *These Companies Support Climate Action, So Why Are They Funding Opposition to It?*, The Center for Public Integrity, Sept. 19, 2017, www.publicintegrity.org/2017/09/19/21168/these-companies-support-climate-action-so-why-are-they-funding-opposition-it.

21. Paul Blumenthal, *Corporations Opposed to North Carolina's Anti-LGBT Law Helped Elect Its Supporters*, HuffPost, Apr. 27, 2016, www.huffingtonpost.com/entry/corporations-lgbt-north-carolina_us_5720f5f4e4b0b49df6a9d76d.

22. Jonathan D. Salant, *Why J&J, Merck Back GOP Opponents of Birth Control They're Selling*, NJ.com, Dec. 12, 2016, www.nj.com/politics/index.ssf/2016/12/jnj_merck_sell_birth_control_products_while_aiding.html.

23. Andy Kroll, *Meet the Fortune 500 Companies Funding the Political Resegregation of America*, Mother Jones, Nov. 21, 2014, www.motherjones.com/politics/2014/11/rslc-redistricting-fortune-500-political-resegregation.

24. PAUL DENICOLA ET AL., THE CONFERENCE BOARD HANDBOOK ON CORPORATE POLITICAL ACTIVITY: EMERGING CORPORATE GOVERNANCE ISSUES 7 (2010) *available at* www.conference-board.org/retrievefile.cfm?filename=1189_1309335497.pdf&type=subsite.

25. *Id*.

26. Diana O'Brien & Deborah DeHaas, *Managing Risk in an Age of Social Media*, Wall St. J., July 5, 2017, deloitte.wsj.com/riskandcompliance/2017/07/05/managing-risk-in-an-age-of-social-media.

27. Francis Wilkinson, Op-Ed., *Fear and Loathing and Money in Pennsylvania*, Bloomberg, Mar. 15, 2018, www.bloomberg.com/view/articles/2018-03-15/pennsylvania-race-will-be-model-for-campaign-spending-in-midterms.

28. Steve Mistler, *Group Says It'll Take LL Bean Off Boycott List if Company Takes Linda Bean Off Board*, Maine Public, Jan. 9, 2017, mainepublic.org/post/group-says-it-ll-take-ll-bean-boycott-list-if-company-takes-linda-bean-board.

29. Daniel Victor, *Trump Tweet About L.L. Bean Underscores Potential Danger for Brands*, N.Y. Times, Jan. 12, 2017, www.nytimes.com/2017/01/12/us/politics/linda-bean-ll-bean-boycott.html.

30. L.V. Anderson, *Liberals, Don't Let Donald Trump Tarnish L.L. Bean's Sterling Brand Reputation*, Slate, Jan. 12, 2017, www.slate.com/blogs/xx_factor/2017/01/12/liberals_don_t_let_donald_trump_tarnish_l_l_bean_s_sterling_brand_reputation.html.

31. Editorial Board, *Florida's Campaign Swamp Is Wider and Deeper Than Publix*, South Florida Sun Sentinel, May 26, 2018, www.sun-sentinel.com/opinion/editorials/fl-op-editorial-adam-putnam-publix-20180525-story.html.

32. Khadeeja Safdar, *How Target Botched Its Response to the North Carolina Bathroom Law*, Wall St. J., Apr. 5, 2017, www.wsj.com/articles/how-target-botched-its-response-to-the-north-carolina-bathroom-law-1491404107.

33. *Id*.

34. Zack Ford, *Trump Supporters Launch Boycotts of Pepsi, Oreos, and Netflix*, Think Progress, Nov. 16, 2016, thinkprogress.org/trump-pepsi-grubhub-boycotts-ca81001849e1.

35. Matthew Haag, *Papa John's Chief Executive to Step Down, Weeks after Blaming N.F.L. for Sales Slump*, N.Y. Times, Dec. 21, 2017, www.nytimes.com/2017/12/21/business/papa-johns-john-schnatter.html.

36. *See* Costas Panagopoulos et al., Risky Business: Does Corporate Political Giving Affect Consumer Behavior? (Oct. 26, 2016) (unpublished) (available at rubenson.org/wp-content/uploads/2016/10/Panagopoulos-etal.pdf) ("It appears that few people have much background knowledge about the political sympathies of leading national chains, but when told which corporations are the largest or most lopsided contributors to a political party, respondents express their partisanship through their consumption choices.").

37. Contributions to political committees created under §527 of the Internal Revenue Code are partially disclosed. The recipient is required to report the contribution to the IRS, but not the donor.

38. *Business-Labor-Ideology Split in PAC & Individual Donations to Candidates, Parties, Super PACs and Outside Spending Groups*, OpenSecrets.org, www.opensecrets.org/overview/blio.php (last visited May 21, 2018).

39. Bob Biersack, *8 Years Later: How Citizens United Changed Campaign Finance*, OpenSecrets Blog, Feb. 7, 2018, www.opensecrets.org/news/2018/02/how-citizens-united-changed-campaign-finance.

40. *Outside Spending*, OpenSecrets.org, www.opensecrets.org/outsidespending (last visited May 21, 2018).

41. Biersack, *supra* note 39.

42. *Id*.

43. *Id*.

44. Laura Vozzella, *Gillespie Took Partisan Mapmaking to a New Level. Try Turning That into a Bumper Sticker.*, Wash. Post, Oct. 31, 2017, www.washingtonpost.com/local/virginia-politics/gillespie-took-partisan-map-making-to-a-new-level-try-turning-that-into-a-bumper-sticker/2017/10/31/03dd5b32-ba93-11e7-be94-fabb0f1e9ffb_story.html.

45. *See* Appendix, *available at* www.politicalaccountability.net/reports/political-spending-and-unintended-consequences.

46. Elizabeth Kolbert, *Drawing the Line: How Redistricting Turned American from Blue to Red*, The New Yorker, June 27, 2016, www.newyorker.com/magazine/2016/06/27/ratfcked-the-influence-of-redistricting.

47. Vozzella, *supra* note 44.

48. David Daley, *How the Republicans Rigged Congress — New Documents Reveal an Untold Story*, Salon, Feb. 6, 2018, www.salon.com/2018/02/06/how-the-republicans-rigged-congress-and-poisoned-our-politics.
49. *Id*.
50. *Id*.
51. Susan Pulliam & Brody Mullins, *The Modern Campaign-Finance Loophole: Governors Associations*, Wall St. J., Dec. 29, 2017, www.wsj.com/articles/the-modern-campaign-finance-loophole-governors-associations-1514562975.
52. Telephone interview with Jacob Hacker, Stanley B. Resor Professor of Political Science, Yale Univ. (March 7, 2018).
53. Eliza Newlin Carney, *Does Big Money Still Matter? You Bet It Does*, The American Prospect, Feb. 4, 2016, prospect.org/article/does-big-money-still-matter-you-bet-it-does.
54. Dan Boylan, *Republicans Headed Toward Keeping Veto-Proof Majorities*, The News & Observer, Nov. 8, 2016, www.newsobserver.com/news/politics-government/election/article113483393.html.
55. Kim Severson, *G.O.P.'s Full Control in Long-Moderate North Carolina May Leave Lasting Stamp*, N.Y. Times, Dec. 11, 2012, www.nytimes.com/2012/12/12/us/politics/gop-to-take-control-in-long-moderate-north-carolina.html.
56. Corinne Segal, *What the North Carolina Legislation to Repeal the HB2 'Bathroom Bill' Actually Says*, PBS News Hour, Mar. 30, 2017, www.pbs.org/newshour/nation/watch-live-nc-legislature-debates-repeal-hb2-bathroom-bill.
57. Alan Blinder, *An Embattled North Carolina Seeks to Outrun a Law's Bitter Legacy*, N.Y. Times, Nov. 4, 2017, www.nytimes.com/2017/11/04/us/north-carolina-transgender-law.html.
58. Jena McGregor, *Add Big Investors to the List of Those Taking Aim at North Carolina's 'Bathroom Bill,'* Wash. Post, Sept. 26, 2016, www.washingtonpost.com/news/on-leadership/wp/2016/09/26/add-big-investors-to-the-list-of-those-taking-aim-at-north-carolinas-bathroom-bill-2/?utm_term=.d8b8c8892ce1.
59. Blumenthal, *supra* note 21.
60. *Id*.
61. *Id*.
62. Alex Kotch, *Businesses Opposing N.C.'s HB2 Helped Elect Legislators Behind It*, Facing South, Apr. 5, 2016, www.facingsouth.org/2016/04/businesses-opposing-ncs-hb2-helped-elect-legislato.
63. *Id*.
64. Leven & Hopkins, *supra* note 20.
65. *Id*.
66. *Id*.
67. Editorial, *What Is the Clean Power Plan, and How Can Trump Repeal It?*, N.Y. Times, Oct. 10, 2017, www.nytimes.com/2017/10/10/climate/epa-clean-power-plan.html.

68. Leven & Hopkins, *supra* note 20.

69. *Id*.

70. *Id*.

71. Kroll, *supra* note 23.

72. *Id*.

73. *Id*.

74. Andrew Perez, *Contraceptive Makers Helped Elect Republican Congress Ready to Defund Planned Parenthood*, MapLight, Mar. 2, 2017, maplight.org/story/contraceptive-makers-helped-elect-republican-congress-ready-to-defund-planned-parenthood.

75. *Id*.

76. *Id*.

77. Salant, *supra* note 22.

78. *Id*.

79. Jonathan D. Salant, *Merck, Pfizer Back Lawmakers Who Oppose Company Products*, Bloomberg, May 30, 2012, www.bloomberg.com/news/articles/2012-05-31/merck-pfizer-back-lawmakers-who-oppose-company-products.

80. Blumenthal, *supra* note 21.

81. Perez, *supra* note 74.

82. *Id*.

83. Blumenthal, *supra* note 21.

84. Salant, *supra* note 22.

85. Leven & Hopkins, *supra* note 20.

86. GLOBAL STRATEGY GROUP, A CALL TO ACTION IN THE AGE OF TRUMP, 5TH ANNUAL STUDY 2 (2018), *available at* http://www.globalstrategygroup.com/wp-content/uploads/2018/02/BusinessPolitics_2018.pdf (finding that "1. More consumers are actively seeking out information about corporate values and issue positions, 2. There is a mandate for real-time engagement, and 3. Inaction often carries a stiff penalty. Today it's no longer 'safer' to sit on the sidelines.").

87. MoneyWatch, *Advertisers Bail as Laura Ingraham Goes on Vacation*, CBS News, Apr. 2, 2018, www.cbsnews.com/news/laura-ingraham-advertisers-drop-show-she-goes-on-vacation.

88. Telephone interview with Maria Patterson, Clinical Assistant Professor of Business, New York University Stern School of Business (Apr. 2, 2018).

89. Telephone interview with Nien-he Hsieh, Associate Professor of Business Administration, Harvard Business School (Apr. 6, 2018).

90. Telephone interview with Ann Skeet, Senior Director of Leadership Ethics, Santa Clara University Markkula Center for Applied Ethics (Apr. 6, 2018).

91. Telephone interview with William S. Laufer, Julian Aresty Professor of Legal Studies & Business Ethics, Sociology, Criminology at The Wharton School, University of Pennsylvania (Apr. 2, 2018).

92. *See* DeNicola, *supra* note 24.

93. *See* Robert Yablon, *Campaign Finance Reform Without Law*, 103 IOWA L. REV. 185 (2017), available at ilr.law.uiowa.edu/print/volume-103-issue-1/campaign-finance-reform-without-law.

94. DeNicola, supra note 24 at 15.

95. Constance E. Bagley, Bruce Freed & Karl Sandstrom, *A Board Member's Guide to Corporate Political Spending*, Harvard Bus. Review, Oct. 30, 2015, hbr.org/2015/10/a-board-members-guide-to-corporate-political-spending.

96. CENTER FOR POLITICAL ACCOUNTABILITY, CPA-ZICKLIN INDEX OF CORPORATE POLITICAL DISCLOSURE AND ACCOUNTABILITY 12 (2017), *available at* http://politicalaccountability.net/index (finding that 295 S&P 500 companies disclosed some, disclosed all, or prohibited election-related spending; and 228 companies required some level of board oversight of corporate political contributions and expenditures).

97. THE BUSINESS ROUNDTABLE, PRINCIPLES OF CORPORATE GOVERNANCE 28 (2016), *available at* businessroundtable.org/sites/default/files/Principles-of-Corporate-Governance-2016.pdf.

98. Bruce F. Freed & Karl Sandstrom, *Protecting Companies from Political Spending Peril*, Harvard Law School Forum on Corporate Governance and Financial Regulation, Sept. 14, 2016, https://corpgov.law.harvard.edu/2016/09/14/protecting-companies-from-political-spending-peril (recommending that companies confirm in advance whether a recipient organization provides regular reports to its major donors on its spending, including the candidates opposed and supported).

99. Jake M. Grumbach & Paul Pierson, Are Large Corporations Politically Moderate? Using Money in Politics to Infer the Preferences of Business 11 (2018) (unpublished) (on file with authors).

100. Bruce F. Freed & Karl J. Sandstrom, *Dangerous Terrain: How to Manage Corporate Political Spending in a Risky New Environment*, The Conference Board Review, Winter 2012, at 20, 22, available at files.cfpa.gethifi.com/reports/cpa-reports/Dangerous_Terrain.pdf.

101. Sam Levine, *Bernie Sanders: 'The Business Model of Wall Street Is Fraud,'* HuffPost, Nov. 14, 2015, www.huffingtonpost.com/entry/bernie-sanders-wall-street-fraud_us_5647fb78e4b08cda3489294a.

102. Center for Political Accountability, *supra* note 96 at 7.

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