

Reality Check on Arguments against Corporate Political Accountability and Disclosure

May 8, 2013

The Center for Competitive Politics issued a “fact checker” on May 1, 2013 that purported to tell “the truth about corporate political spending issues.” Unfortunately, it was filled with misstatements and inaccuracies. The following information corrects them.

Assertion	Reality
<p><i>Proponents of corporate political spending disclosure have a history of saying one thing but meaning another when it comes to their goals of limiting, not promoting, free speech. They are adept at creating the illusion of an independent mainstream movement when the reality is that public opinion is not in their favor.</i></p>	<ul style="list-style-type: none"> • In its 2010 decision on the Citizens United v. FEC, the U.S. Supreme Court upheld disclosure by an 8 to 1 vote. Justice Kennedy wrote: <i>“With the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation’s political speech advances the corporation’s interest in making profits, and citizens can see whether elected officials are ‘in the pocket’ of so-called moneyed interests.”</i> • In his concurring opinion in Doe v. Reed (2010), Justice Scalia affirmed disclosure in ringing terms: <i>“Requiring people to stand up in public for their political acts fosters civic courage, without which democracy is doomed. For my part, I do not look forward to a society which . . . campaigns anonymously and even exercises the direct democracy of initiative and referendum hidden from public scrutiny and protected from the accountability of criticism. This does not resemble the Home of the Brave.”</i> • In a survey taken in 2008, members of corporate boards viewed political spending as a potentially risky pursuit and an overwhelming majority supported disclosure of corporate political activity. The poll of 225 directors was commissioned by the Center for Political Accountability and conducted by Mason-Dixon Polling & Research, a non-partisan survey firm. • A 2006 survey of shareholder attitudes on corporate political spending found that an overwhelming majority believes that this activity can put corporations at legal risk and diminish shareholder value. Commissioned by the CPA, the survey was based on the views of 800 shareholders.
<p><i>Claim: “The five largest U.S. mutual fund families supported [political disclosure proposals] more than 80 percent of the time during the 2012 proxy season.” –</i></p>	<ul style="list-style-type: none"> • This statement was a typo and has since been corrected by the writers of the opinion. As of today, the statement reads: “Five of the largest U.S. mutual fund families supported them more than 80 percent of the time during the 2012 proxy season.”

<p>Adam Kanzer, Domini Social Investments LLC; Lisa Gilbert, Public Citizen Congress Watch; and Leslie Samuelrich, Green Century Capital Management (Politico, 2/5/2013)</p> <p><i>Facts: The claim that the five largest mutual fund families backed such proposals more than 80 percent of the time in 2012 is wildly inaccurate.</i></p>	<ul style="list-style-type: none"> ○ The data behind the writers’ opinion came from CPA’s 2012 Mutual Fund Voting Survey, which found that 40 of the largest mutual fund families supported corporate political spending disclosure resolutions about 34 percent of the time, on average, in the 2012 proxy season.
<p>Claim: “Over the past decade, support for political disclosure has grown steadily among shareholders and proxy advisory services. Indeed, the average vote for these resolutions has topped 30 percent in the past three proxy seasons...Shareholders recognize that while the amounts spent may seem immaterial, the unintended consequences are not.” - Bruce Freed, Center for Political Accountability (Center for Political Accountability Letter, 9/27/2012)</p> <p><i>Facts: Average shareholder support for corporate political spending proposals declined from 2011 to 2012, this year averaging only 18.3 percent at Fortune 250 public companies.</i></p>	<ul style="list-style-type: none"> ● Support for resolutions calling for corporate political spending disclosure and accountability has increased over the past decade. The number of companies agreeing to disclosure has also grown steadily each year. <ul style="list-style-type: none"> ○ In 2004, the average shareholder support for disclosure resolutions was about 10 percent. Support steadily grew until 2009, when average vote reached 30 percent, where it has remained steady since then. Many votes have been in the 30 to 40 plus percent range and lead companies to adopt political disclosure by the next proxy season. ○ The number of successful agreements that shareholder proponents have reached with companies shows the willingness of companies to disclose. As of May 8, a total of 117 leading public companies have entered into political disclosure agreements with CPA’s shareholder partners. The number has grown steadily since the first agreement was reached with Morgan Stanley in December 2004. In 2012, shareholders reached agreements with 13 companies; this year, the total is 15 as of May 8. ● CPA follows the SEC method of counting shareholder votes, which uses only the numbers of shares voted in favor and against a resolution. Just as the SEC, CPA does not claim to know shareholders’ intent when they abstain from voting on a resolution and does not include them in the formula. Certain interest groups have counted abstentions as “no” votes so that they may portray a lower shareholder support than there really is.
<p>Claim: “The CPA-Zicklin Index of Corporate Political Disclosure and Accountability provides a comprehensive portrait of how leading publicly held U.S. companies are addressing political spending... The Index gives investors a tool to evaluate whether their companies’ policies and practices invoke disclosure or meaningful accountability.” (The 2012 CPA-Zicklin Index, 9/25/2012)</p> <p><i>Facts: The Index, which purports to “score” companies on the strength of their</i></p>	<ul style="list-style-type: none"> ● Most companies included in the Index in both years IMPROVED their overall scores. <ul style="list-style-type: none"> ○ “Of 88 companies studied by the Index for the second year in a row, an overwhelming majority of 75 companies (85 percent) improved their overall scores for political disclosure and accountability.” - Page 10, 2012 CPA-Zicklin Index. ● CPA changed its scoring system and the number of indicators for the Index between 2011 and 2012, and these changes were made transparent in the latest Index. The changes reflected an effort to refine the Index in response to feedback from companies and to

<p><i>political disclosure, comes from the Zicklin Center at the Wharton School of Business, where Bruce Freed helped create the rankings. The 2012 Index changed its baseline scoring averages from 2011, resulting in many companies receiving lower scores. By changing the underlying methodology year to year, the Index seeks to accomplish the CPA's goals by creating the illusion that companies have not yet established satisfactory disclosure practices.</i></p>	<p>make the process simpler and clearer for all stakeholders. For example, the total number of indicators DECREASED between the two years, from 29 to 25. For details on these changes, see pages 11 and 20-21 of the 2012 CPA-Zicklin Index.</p> <ul style="list-style-type: none"> ○ In 2012, a total of 88 out of the 196 companies included in the 2012 Index provided comments to CPA during its review period.
<p>Claim: “The CPA-Zicklin Index released last year found that political disclosure and accountability was becoming a mainstream corporate practice...the index confirmed that a growing number of companies restrict how their money can be used politically and take seriously the consequences that uninformed political spending may have on the company and on the larger society.” - Bruce Freed, Center for Political Accountability (Center for Political Accountability Letter, 9/27/2012)</p> <p><i>Facts: The vast majority of public companies have not found that CPA-style political spending disclosure is a mainstream corporate practice that should be adopted.</i></p> <ul style="list-style-type: none"> • “CPA’s own 2012 analysis . . . shows that fewer than 15 of [the] 196 companies [listed in the CPA-Zicklin Index] are disclosing political expenditures that are not already required to be disclosed by the applicable political contribution laws.” (Letter from 60 Plus Associations to Elizabeth M. Murphy, 1/4/2013) 	<ul style="list-style-type: none"> • The 2012 CPA-Zicklin Index included the following findings on how companies are voluntarily disclosing information that is not required to be reported to state agencies or the Federal Election Commission. Among the 196 companies in the study: <ul style="list-style-type: none"> ○ Trade Associations: Seventy companies (36 percent) made some disclosure of their payments to trade associations, while nine (5 percent) said they asked trade associations not to use their payments for political purposes. ○ Social Welfare Organizations: Thirty-two (16 percent) of the companies disclosed their payments to politically active and tax-exempt social welfare organizations, called (501)(c)(4) groups, while 17 companies (9 percent) said their policy is not to give to these groups. <p>(Pages 13 -14, 2012 CPA-Zicklin Index)</p>
<p>Claim: “The Conference Board, the nation’s leading business research organization, recognizes the risk posed by political spending and published a Handbook on Corporate Political Activity in November 2010 to assist companies in managing and overseeing their political spending.” - Bruce Freed, Center for Political Accountability (Center for Political Accountability Letter, 9/27/2012)</p> <p><i>Facts: Bruce Freed directly influences the views of the Conference Board, serving on</i></p>	<ul style="list-style-type: none"> • The Conference Board’s Handbook on Corporate Political Activity was co-authored by Paul DeNicola, then director of its Governance Center; Stefan Passantino, a leading Republican campaign finance lawyer with McKenna Long & Aldridge; Bruce Freed; and Karl Sandstrom of Perkins Coie. The Conference Board is the nation’s foremost business research organization. All of its publications, the handbook included, go through a rigorous editing process.

<p><i>the three-member Advisory Panel to the Conference Board’s Committee on Political Spending. Bruce Freed has also co-authored several of the Conference Board’s publications, including its Handbook on Corporate Political Activity. These publications are frequently cited by activists as evidencing the business community’s views, creating the illusion of an echo chamber in support of corporate disclosure.</i></p>	
<p>Claim: “Our partners, many of whom signed this letter, represent concerned and engaged investors from diverse organizations including pension funds, foundations, religious institutions and socially responsible investment firms.” - Bruce Freed, Center for Political Accountability (Center for Political Accountability Letter, 9/27/2012)</p> <p><i>Facts: The interests involved in this movement for more disclosure are not concerned investors with respect to the health of the company. They are a coordinated effort of narrow interest groups seeking to sideline corporate America in the public discussion of their narrow liberal policy goals.</i></p>	<ul style="list-style-type: none"> • CPA’s open letter asks the S&P 500 companies to adopt political spending accountability and disclosure. The most recent letter was signed by investors representing more than \$300 billion in total assets under management. The group represents a variety of views on corporate engagement on elections, but one thing in common is their concern for transparency and accountability. • CPA’s request in its open letters has been supported by the Council of Institutional Investors, a nonprofit association of pension funds, other employee benefit funds, endowments and foundations with combined assets that exceed \$3 trillion. • The leading proxy advisory firms, Glass Lewis and MSCI/ISS, generally recognize corporate political spending disclosure as a sound governance policy. <ul style="list-style-type: none"> ○ In 2010, MSCI/ISS adopted a general proxy voting policy to vote FOR those resolutions on corporate political spending accountability and disclosure. ○ In the conclusion to its report on Political Contributions: 2012, Glass Lewis said, “... given the importance of these decisions [on political spending], they should be disclosed to investors – subject, of course to appropriate trade secret and reputational protections – so that investors have an opportunity to understand the way in which management is exercising this important corporate prerogative.”