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By Karl Sandstrom and Bruce F. Freed August 21, 2026

Widely overlooked in the U.S. Supreme Court's landmark campaign finance decision this term is a surprising and robust affirmation of disclosure for combating corruption. With this principle reinforced, we expect many states to strengthen and expand their campaign finance disclosure laws to capture political activity that is currently not disclosed, including contributions to trade associations and advocacy organizations that make political contributions and expenditures.

The Supreme Court held in *National Republican Senatorial Committee v. Federal Election Commission*that Federal Election Campaign Act (FECA) limits on political party committees coordinating with candidates violate the committees' First Amendment rights. Most commentary about the 6-3 ruling has focused on the fact that it will likely enhance the role that political parties will play in financing elections. But the decision has consequences that reach well beyond its impact on political parties.

Writing for the majority, Justice Brett Kavanaugh recognized and accepted that Congress has a compelling interest in stemming corruption—and the appearance of it—that can accompany large political contributions and expenditures and embraced the constitutionality of contribution limits and measures designed to prevent their circumvention. And Justice Kavanaugh stressed that transparency and disclosure are central to advancing Congress' interest in policing contribution limits and stemming corruption.

The Court explained that disclosure can "deter actual corruption and avoid the appearance of corruption by exposing large contributions and expenditures to the light of publicity." It found "disclosure has become a much stronger anti-circumvention tool over time because of 'modern technology,' especially the Internet."

For a host of reasons, both legal and business, public corporations share Congress' interest in stemming corruption.

Transparency provides an internal safeguard for a company unwittingly engaging in political activity that might expose it to accusations of corruption. It also serves to protect companies from shakedowns by elected officials. Undisclosed contributions to tax-exempt, nonprofit advocacy organizations operating under Section 501(c)(4) of the Internal Revenue Code, and to trade associations operating under Section 501(c)(6), pose a heightened risk because a company typically loses control over how the contribution is used. It is becoming increasingly common for elected officials to be closely associated with, and even control, politically active 501(c)(4) social welfare organizations. These officials and their allies are doing so to circumvent the disclosure and limits that normally are required for direct political contributions to elected officials and candidates.

The importance of disclosure extends to other third-party groups such as Super PACs and so-called 527 committees, the respective parties governors' associations, state legislative campaign committees and attorneys general associations. When companies give money to third-party groups, they lose control of it. They need to know the ultimate recipients of their contributions, and what the money enables, to assess any risk the contributions may pose. This is an essential element of due diligence and assessing whether the contribution advances the company's interest and stated public values.

Exhibit A in the risks inherent for companies in "dark money" political spending is the scandal that shook FirstEnergy Corp. over efforts to bribe Ohio state officials to pass a $1 billion bailout of two affiliated nuclear plants. The indictment of two former top executives outlined a pattern of racketeering activity that included payment of more than $59 million to a 501(c)(4) entity.

Many companies have embraced transparency in their political spending, as reflected in an annual scorecard the Center for Political Accountability and The Wharton School's Zicklin Center for Governance and Business Ethics has published since 2011. The 2025 Center for Political Accountability-Zicklin Index showed the number of all S&P 500 companies scoring 90 percent or above for their political spending disclosure and accountability was 112, a fourfold increase from 2015, the year the Index was expanded to cover the S&P 500.

In the wake of *N.R.S.C. v. F.E.C.,* it can be expected that states will seek to expand disclosure requirements to contributions made to social welfare organizations and trade associations that engage in politics. A number of states already have, including New York, Connecticut, and Arizona. Legislation has been introduced in 38 states that would require greater disclosure for organization engaged in election advocacy

It is worth noting that the Court called for vigilant enforcement of the law's earmarking rules, finding these rules essential to advancing disclosure and policing circumvention of the contribution limits. As one major law firm, Skadden Arps, has noted, the Court's "references to earmarking and disclosure rules as an important safeguard against *quid pro quo* corruption and circumvention of limits may mean donors could face increased scrutiny of party contributions, whether by the government or oversight groups, for indications that parties are acting as a conduit for contributions directed to benefit a particular candidate or campaign." This caution applies to any effort to circumvent the contribution limits.

Public companies should embrace the Court's finding that disclosure is an essential tool in combatting corruption and not wait for legislation that compels it.

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