

STATE OF WISCONSIN
BEFORE THE GOVERNMENT ACCOUNTABILITY BOARD

The Complaint of
Brendan Fischer,
Center for Media and Democracy,

COMPLAINT

Complainant

against

Coalition for American Values

Respondent

This complaint is made pursuant to GAB § 1.91 and Wis. Stat. § 11.06

I, Brendan Fischer, allege that:

A group called Coalition for American Values (CAV) registered as a “corporation” for the purpose of influencing elections but failed to disclose the source of its funding as required by law, and acted like a Political Action Committee without following Wisconsin’s transparency rules governing PACs.

CAV incorporated as a for-profit corporation in Wisconsin and Virginia just months before the June 5, 2012 recall election, apparently for the sole purpose of spending on ads to influence that election. CAV registered as a “corporation” with the Government Accountability Board (GAB) on June 4 and established a segregated independent expenditure account, but listed the only donor for its \$400,080 in independent expenditures as itself.

However, recent tax filings show that a Virginia-based 501(c)(4) nonprofit, the Center to Protect Patient Rights (CPPR) -- which was recently fined \$1 million by California’s elections board for evading disclosure laws in that state -- gave CAV \$510,000 in 2012. This is CAV’s only known donation that year.

Given that Wisconsin’s recall election appears to have been CAV’s only activity since it came into existence, it is very difficult to believe that CPPR did not make this contribution for the purpose of funding the Wisconsin recall ads, and that CAV did not know that this was the purpose of the contribution.

Under these circumstances, the GAB should not allow a “corporation” like CAV to avoid disclosing its donors by claiming no donations were “made for” the purpose of

funding independent expenditures. The facts and circumstances indicate that the corporation itself was formed for the purpose of influencing elections in Wisconsin, and received donations from CPPR for the purpose of making independent expenditures.

If the GAB does not demand greater disclosure under these facts and circumstances, its rules and disclosure requirements in this area will mean nothing, and more state and out-of-state groups will form corporate entities to influence elections while escaping mandatory disclosure laws intended to protect the integrity of Wisconsin elections.

Coalition for American Values Was Created in Advance of the Wisconsin Gubernatorial Recall Election. Then Folded

The Coalition for American Values first appeared in mid-October 2011. The group registered the website domain name CoalitionForAmericanValues.org on October 13, 2011 (see Exhibit A), incorporated in Virginia on October 14, 2011 (see Exhibit B,) and registered as a foreign non-stock corporation in Wisconsin on October 19, 2011. ¹ See Exhibit C. On November 2, 2011, CAV registered as an independent expenditure-only PAC with the Federal Elections Commission.² See Exhibit D.

On November 21, 2011, the group registered a second corporation in Virginia, the “Coalition for American Values Action, Inc.” See Exhibit E. On February 2, 2012, Coalition for American Values Action, Inc., was incorporated in Wisconsin as a foreign non-stock corporation. See Exhibit C. The website CoalitionforAmericanValuesAction.org was registered on that same day, February 2. See Exhibit F.

On May 23, 2012, Coalition for American Values Action, Inc., registered as a sponsoring organization with the GAB, and sponsored the political committee “Coalition for American Values Committee.” See Exhibit G. It is our understanding that the “Coalition for American Values Committee” (hereafter CAV Committee) was first registered as a PAC on May 23rd, but was changed to a corporation on June 4th to comply with GAB Rule 1.91. See Exhibit H.

CAV’s GAB registration lists the address for the sponsoring organization, PAC, and corporation as 6650 W State Street, Suite 271 Milwaukee, WI, 53213 – a dropbox at a UPS Store. CAV’s address in Virginia is also a UPS store.

¹ The registered agent for Coalition for American Values Action, Inc. is Matthew Muggerridge, a staff attorney at the anti-union National Right to Work Foundation.

² See <http://docquery.fec.gov/pdf/850/11030690850/11030690850.pdf#navpanes=0>. The Coalition for American Values PAC filings with the FEC can be accessed here: <http://docquery.fec.gov/cgi-bin/fecimg/?C00506113>

The CAV Committee's ads first aired on or around May 24, and appeared to run through the June 5 election. The ads constituted express advocacy in support of Scott Walker.³ See Exhibit I.

The Coalition for American Values Committee Facebook page was created on May 25, just as its ads began airing on Wisconsin television.⁴ The Facebook page was updated repeatedly in the runup to the recall election, and went silent after June 2012. See Exhibit J.⁵

The corporate status of Coalition for American Values and Coalition for American Values Action is no longer current, neither in Virginia nor Wisconsin.

In Virginia, CAV's status was terminated on February 28, 2013 and Coalition for American Values Action's status was terminated on March 31, 2013 for failure to pay necessary fees or failure to file an annual report, according to the Virginia State Corporation Commission. See Exhibits B, E.

In Wisconsin, the "Certificate of Authority" for both CAV and Coalition for American Values Action was revoked on October 23, 2013. See Exhibit C.

The "corporation" registered with the GAB, the CAV Committee, has kept its registration current, but has reported no expenditures since the June 2012 recall election.

CAV Spent \$400,080 in Wisconsin Recall Ads But Didn't Disclose True Source Of Funds

The CAV Committee reported to the GAB that it spent a total of \$400,080 on ads in the 2012 recall elections, and listed its exclusive source of funding as Coalition for American Values Action, Inc. (the nonstock corporation registered in Wisconsin on February 2). See Exhibit K. The CAV Committee reported receiving two donations from the Coalition for American Values Action, Inc., \$385,300 on May 24 and \$14,780 on May 30, and made expenditures in the same amounts and on the same days, \$385,300 on May 24 for "Media-Videos" and \$14,780 on May 30 for "Media-TV". *Id.*

Because the CAV Committee registered with the GAB as a "corporation" with a designated depository account for its independent expenditures, under Wis. Admin. Code § 1.91 it is only required to report contributions *made for* its independent expenditures. By reporting that it received all of its funding from the Coalition for American Values, Inc., CAV appears to be claiming it is using funds from its general

³ CAV filed an oath of independent disbursements stating that they would be supporting Scott Walker. See Exhibit I.

⁴ Coalition for American Values Facebook page, available at <https://www.facebook.com/pages/Coalition-For-American-Values/402546549790355>

⁵ The only action since June 1, 2012 was the page's "cover photo" being changed on September 20, 2013.

treasury, and that the corporation “Coalition for American Values, Inc.” received no contributions that were “made for” the purpose of funding independent expenditures.

Such a claim might be believable were it to come from an established organization that earns or raises money for reasons other than electoral purposes, such as the National Rifle Association or People for the American Way (both of which also have registered as “corporations” with the GAB). But it is not a credible claim when it comes from CAV, whose only apparent reason for existing was to influence Wisconsin’s recall election, and which did nothing to raise money for any purpose other than the ads (according to its own website), and which effectively folded after the election.

CAV’s claim is even more suspect given that its entire budget appears to have come from CPPR. It stretches the imagination to believe that CPPR provided funding to Coalition for American Values Action, Inc. for any reason other than to have those funds spent on Wisconsin’s elections, since that is precisely how most if not all of those funds were spent.

CAV Funder Center to Protect Patient Rights, a “Key Nonprofit in the Koch Brothers' Dark Money Network,” Fined \$1 Million for Campaign Violations

CPPR gave Coalition for American Values Action, Inc., \$510,000 in 2012, according to CPPR’s Form 990 filed with the IRS. *See* Exhibit L.⁶ It appears that CAV used the vast majority of the funds to air independent expenditures in Wisconsin, as the group has done little else and no longer exists. It defies reason to believe that CPPR provided funding to Coalition for American Values Action, Inc., for any reason other than to have those funds spent on Wisconsin’s elections.

CPPR “is one of the largest political nonprofits in the country, serving as a conduit for tens of millions of dollars in political spending, much of it raised by the Kochs and their political operation and spent by other nonprofits active in the 2010 and 2012 elections,” according to the *New York Times*.⁷ The California Fair Political Practices Commission (FPPC) called CPPR the “key nonprofit in the Koch Brothers’ dark money network of nonprofit corporations.”⁸ CPPR is part of what the Washington Post called a “political network spearheaded by conservative billionaires Charles and David Koch,” a network which raised \$407 million in

⁶ CPPR’s 2012 Form 990 excerpted as Exhibit L; complete filing available at <https://s3.amazonaws.com/s3.documentcloud.org/documents/889175/center-to-protect-patient-rights-2012.pdf>

⁷ *See* Nicholas Confessore, “Group Linked to Kochs Admits to Campaign Finance Violations,” *The New York Times*, October 24, 2013. http://www.nytimes.com/2013/10/25/us/politics/group-linked-to-kochs-admits-to-campaign-finance-violations.html?ref=politics&_r=0

⁸ California Fair Political Practices Commission, Press Release, October 24, 2013, available at http://fppc.ca.gov/press_release.php?pr_id=783

2012 and distributed the funds to politically-active nonprofits across the country.⁹

In 2012, in response to a complaint from the California chapter of Common Cause, California's FPPC uncovered that the Center to Protect Patient Rights was involved in what the FPPC called "campaign money laundering," where \$15 million was shuffled between four different nonprofits to influence two ballot initiatives while evading the state's disclosure laws. CPPR was fined \$1 million, as was an Arizona-based nonprofit, Americans for Responsible Leadership. In addition, the FPPC required that the \$15 million spent to secretly influence the ballot measure be turned over to the California general fund.¹⁰

CAV's Ads Impacted Election Outcome

Wisconsin voters have a strong interest in knowing who is trying to influence the outcome of elections. Those interests are even more compelling when a group is spending enough to have an apparent impact.

"I didn't vote for Scott Walker, but I'm definitely against this recall," one man says in a thick Wisconsin accent, as he fishes from a pier. "I didn't vote for Scott Walker but I'm against the recall," says another, leaning against a tractor. "There's a right way, there's a wrong way, and I think this is the wrong way," says a woman identified as a teacher, standing in front of a pickup truck, with a farm in the background. "Recall isn't the Wisconsin way," another "Wisconsin voter" says, ending with the message: "End the recall madness. Vote for Scott Walker June 5th."

Spending more than \$400,000 in Wisconsin's relatively small media market, over a period of just two weeks, amounted to a near-saturation level of advertisement. Coupled with similar messaging from Governor Walker himself, the ads appeared to help influence the outcome of the elections -- exit polls showed that a full seventy percent of voters thought the use of recall was inappropriate.¹¹

⁹ See Matea Gold, "Koch-backed political coalition, designed to shield donors, raised \$400 million in 2012," *Washington Post*, January 5, 2014, available at http://www.washingtonpost.com/politics/koch-backed-political-network-built-to-shield-donors-raised-400-million-in-2012-elections/2014/01/05/9e7cfd9a-719b-11e3-9389-09ef9944065e_story.html?hpid=z1

¹⁰ Reid Wilson, "California to Levy Massive Fine Against Koch Brother Groups," *Washington Post*, Oct. 24, 2013, available at <http://www.washingtonpost.com/blogs/govbeat/wp/2013/10/24/california-to-levy-massive-fine-against-koch-brothers-groups/>

¹¹ Sixty percent of voters thought recalls were only appropriate for cases of official misconduct and ten percent thought recall elections should never be held. See Kevin Hetchkopf, "Early Wisconsin Recall Exit Polls: 60 Percent Say Recalls Only for Official Misconduct," *CBS News*, June 5, 2012, available at <http://www.cbsnews.com/news/early-wisconsin-recall-exit-polls-60-percent-say-recalls-are-only-for-official-misconduct/>

This was a shift from just a few months earlier. A St. Norbert College/Wisconsin Public Radio poll of Wisconsin voters from November 2011, just as the effort to collect signatures and trigger the recall elections was launched, showed that fifty-eight percent of those surveyed supported using the Constitution's right of recall to remove Walker from office, with just 38 percent opposed.¹² Support for President Obama's reelection in the November 2011 poll and June 2012 exit poll were exactly the same (51%), suggesting neither poll was anomalous.

CAV's very expensive ads dominated Wisconsin's airwaves and appeared to have helped influence the outcome of the recall elections. But Wisconsin voters on the June 5, 2012 election day never knew who was really behind CAV, or that the ads, which tutored Wisconsin residents about "the Wisconsin way," were actually funded by a secretive out-of-state group bankrolled by billionaires.

Secrecy Is Contrary to Wisconsin Law and Judicial Precedent

This obfuscation demonstrated by the CAV operation is contrary to the intentions of the Wisconsin legislature and the citizens they represent in creating campaign finance laws designed to ensure the integrity of our elections. It is also contrary to extensive case law strongly favoring disclosure, and it is contrary to the GAB's own reasons for enacting Rule 1.91.

The "Declaration of Policy" in Wisconsin's campaign finance statutes, § 11.001(1), Wis. Stats., states that:

The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed. One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information which aids the public in fully understanding the public positions taken by a candidate or political organization. **When the true source of support or extent of support is not fully disclosed . . . the democratic process is subjected to a potential corrupting influence.** The legislature therefore finds that the state has a compelling interest in designing a system for fully disclosing contributions and disbursements made on behalf of every candidate for public office, and in placing reasonable limitations on such activities. **Such a system must make readily available to the voters complete information as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly.** (Emphasis added).

¹² Eric Black, "Poll: Wisconsin Majority Favors Recall of Gov. Walker," *Minnesota Post*, November 15, 2011, available at <http://www.minnpost.com/eric-black-ink/2011/11/poll-wisconsin-majority-favors-recall-gov-walker>

See also § 11.002, noting “**the right of the public to have a full, complete and readily understandable accounting of those activities intended to influence elections.**” (Emphasis added).

The GAB promulgated Rule 1.91 pursuant to its authority to interpret and implement these statutes, and to harmonize Wisconsin’s election statutes with the U.S. Supreme Court’s decision in *Citizens United v. FEC*, which deemed that corporations cannot be barred from engaging in independent expenditures.

In opening the door for corporate-sponsored independent expenditures, though, the U.S. Supreme Court spoke strongly in favor of disclosure, and noted that “the First Amendment protects political speech, and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.” *Citizens United v. FEC*, 130 S. Ct. 876, 916 (2010).

GAB Rule 1.91 provides that corporations may sponsor independent expenditures in Wisconsin, and is drafted to require disclosure of all contributions “made for” the purpose of funding the independent expenditures.

CAV received its known funding from a single source, CPPR, and appears to have done little else besides run ads in Wisconsin elections. CAV cannot reasonably claim that CPPR’s donation was provided for any reason other than to fund CAV’s independent expenditures.

Indeed, the U.S. Supreme Court has upheld disclosure requirements in response to secretive front groups influencing elections without disclosure. Citing past precedent, the Court in *Citizens United* noted that it has upheld transparency requirements to allow voters to “make informed choices in the political marketplace” in response to organizations running election-related ads “while hiding behind dubious and misleading names.” *Id.* at 914 (citing *McConnell v. FEC*, 540 U.S. 93, 197 (2003)).

CAV Solicited Additional Donations that Were Not Disclosed

In addition to CAV failing to disclose its contributions from CPPR, the group also failed to report any donations it solicited from its website, where it specifically asked for funds to run the Wisconsin recall ads.

As noted above, the domain name for the website CoalitionforAmericanValues.org was registered on the same day the group incorporated in Wisconsin. The website provides no useful information about the group’s mission, affiliations, or funding, but it does feature the anti-recall ad that aired on Wisconsin television over the words “KEEP THIS TV AD ON THE AIR” and a button that reads “CONTRIBUTE NOW. CLICK HERE.” See Exhibit M.

Clicking the “contribute now” button opens a page where a person can enter their credit card or bank information to make a contribution, along with a disclaimer stating CAV Committee is an independent expenditure-only committee and donations are not tax-deductible.¹³ The donation page also features the TV ad over the words “KEEP THIS TV AD ON THE AIR.” See Exhibit N.

Any contributions made through CAV’s website were “made for” the purpose of funding the independent expenditures, and the identity of the donors should have been disclosed under Rule 1.91. But no donors were reported besides Coalition for American Values, Inc.

CAV Should Be Penalized for its Non-Compliance

Despite CAV receiving contributions from CPPR and from the public that were “made for” the purpose of funding independent expenditures, and despite CAV apparently having been formed to influence the recall election, CAV did not disclose the true source of their funding, as required by GAB § 1.91(8) and Wis. Stat. § 11.06.

We respectfully request the GAB investigate the actions of CAV, as well as CPPR, and sanction these entities and their leaders for any and all violations it deems appropriate.

CAV’s treasurer -- whose address is also listed at the UPS Store -- is Brent Downs. Downs is also listed as the treasurer for CAV’s federal PAC. Little information is available about Downs online, but searching through archived versions of websites shows that he is a recent graduate of Marquette University in Milwaukee and chaired the Marquette Chapter of Students for Prosperity, the student arm of the Tea Party group Americans for Prosperity, which is funded and chaired by its founder, David Koch. Both Americans for Prosperity and CAV’s funder, CPPR, are part of the same Koch-backed political network.¹⁴ In 2008, Downs was also the Treasurer for the Marquette University College Republicans.

It seems difficult to believe that a recent college graduate managed to establish a political action committee and raise and spend nearly a half-million dollars on political advertisements in Wisconsin. What seems more likely is that his name is being used to help disguise the out-of-state special interests seeking to influence

¹³ “Contributions to Coalition for American Values Committee are not tax deductible as charitable contributions for federal income tax purposes. Contributions from foreign nationals are prohibited. Coalition for American Values Committee is registered with the Wisconsin Government Accountability Board as an independent expenditure committee. Accordingly, we may accept unlimited contributions from individuals, corporations, and other organizations. Coalition for American Values Committee’s spending is independent, and it does not make contributions to, or coordinate its spending with, any candidates or political parties.”

¹⁴ See Gold, “Koch-backed political coalition, designed to shield donors, raised \$400 million in 2012,” *Washington Post*, January 5, 2014, *supra* note 8.

Wisconsin elections, and we request that the GAB determine whether other individuals or organizations are responsible for the CAV scheme.

The “additional contact” on CAV’s Wisconsin GAB filings and the individual listed as CAV’s “General Counsel” on its federal filings is James Skyles. Until March 2011, Skyles was Director of Operations and General Counsel for the Franklin Center for Government and Public Integrity, which operates *Wisconsin Reporter* and Watchdog.org.

CPPR’s president, treasurer, and executive director is Sean Noble, a conservative consultant who has long been tied to the Koch donor network.¹⁵

Wisconsin law states that any person, including any committee or group, who violates chapter 11 of the statutes may be required to forfeit up to \$500 for each violation. § 11.60(1). In addition, any person, including any committee or group, who is delinquent in filing a report required by chapter 11 may be required to forfeit up to \$50 or one percent of the annual salary of the office for which the candidate is being supported or opposed, whichever is greater, for each day of delinquency. § 11.60(2). Finally, any person, including any committee or group, who makes any contribution in violation of chapter 11 may be required to forfeit treble the amount of the contribution or portion thereof which is illegally contributed. § 11.60(3).

We respectfully ask the Board to make public the results of this investigation in order to help ensure the integrity of Wisconsin’s electoral process.

Date: January 8, 2014



Brendan Fischer
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¹⁵ See Peter H. Stone, “Sean Noble, ‘Wizard’ Behind Koch Brothers’ Donor Network,” Huffington Post, Oct. 2, 2013, available at http://www.huffingtonpost.com/2013/10/02/sean-noble-koch-brothers_n_4017578.html

I, Brendan Fischer, being first duly sworn on oath state that I personally read the above complaint, and that the above allegations are true based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.

BF

(complainant's signature)

STATE OF WISCONSIN)

) ss.

County of Dane)

Sworn to before me this day of 8th day of January, 2014.

[Signature] Notary Public

My commission expires 4/19/2015, or is permanent.

