



The IRS Harassment Scandal: A Timeline of “Reform”

Documenting Efforts by the Regulatory Community to Police Political Speech
Timeline Events Current as of September 16, 2013

In May 2013, reports surfaced and investigations began into the revelation that the Internal Revenue Service had been scrutinizing groups applying for 501(c)(4) status using politically biased criteria. Beginning in March 2010, groups with names containing the words “Tea Party” or “patriot” were singled out for greater IRS scrutiny. Later, in an attempt to change from overtly partisan to more general criteria, the IRS shifted to targeting organizations with the goal of “teaching about the Constitution.” In addition to using these outrageous criteria, IRS officials were dishonest about their actions, repeatedly testifying before members of Congress that there was no targeting program. After admitting that the targeting had occurred, the IRS suggested that it was merely the result of a rogue group of agents in its Cincinnati office, a claim that has since been debunked by Congressional investigators.

After submitting applications for nonprofit status, conservative-leaning social welfare groups waited years to hear back from the IRS. When they finally did hear back about the status of their application, the responses came in the form of demands for additional information. In many cases, the IRS required that groups send the agency their donor lists, names of board members, copies of minutes from all board meetings, resumes of individuals involved in the organization, and copies of all social media postings. Some organizations were asked to provide reports about the books their members had read as a group. Other groups were asked about their relationship to other groups and to politically engaged individuals, and in some cases, organizations were asked about what kinds of activities they would participate in the future. Organizations were even told to provide personal information on seasonal interns and to provide copies of all correspondence with former interns. Each of the questionnaires contained a letter threatening perjury charges for providing the wrong information, which is especially troubling when considering that, in some instances, the responses were over an astounding twenty thousand pages in length. For many small, grassroots organizations started by concerned citizens, complying with the IRS’s requests taxed organizations’ resources to the point that they ultimately had to shut down.

The IRS scandal calls into question the wisdom of requiring (or allowing) non-expert government agencies to police the political speech of individuals and organizations. The following working timeline documents the legislative, regulatory, and judicial actions on both the state and federal level as well as the intense pressure from pro-regulatory organizations surrounding and in many ways emboldening the culture at the IRS that led to this harassment scandal. This working timeline is also available online at: <http://www.campaignfreedom.org/external-relations/irs-and-the-tea-party/>.

Please note: All entries marked with an asterisk are taken from a June 6, 2013 *Wall Street Journal Article*, “An IRS Political Timeline,” written by Kimberly A. Strassel. The article is available at: <http://online.wsj.com/article/SB10001424127887323844804578529571309012846.html>.

April 29, 2008: U.S. Representative Chris Van Hollen (D-MD), then-Chairman of the Democratic Congressional Campaign Committee, files a complaint with the IRS, asking Lois Lerner to investigate Freedom’s Watch, a conservative section 501(c)(4) organization.¹

February 3, 2009: A FEC Enforcement Division attorney at the FEC asks the IRS for information about the tax-exempt statuses of the American Future Fund and American Issues Project. In an e-mail response, Lois Lerner, Director of Exempt Organizations Division at the IRS, asks, “What can we do to help the FEC here?”²

January 21, 2010: The Supreme Court rules in *Citizens United v. Federal Election Commission* that, under the First Amendment, the government could not restrict corporations, associations, and labor unions from making independent expenditures in support of or opposition to candidates. Writing for the 5-4 majority, Justice Kennedy affirmed, “If the First Amendment has any force, it prohibits Congress from fining or jailing citizens, or associations of citizens, for simply engaging in political speech.” Meanwhile, President Obama called the ruling “a major victory for big oil, Wall Street banks, health insurance companies and the other powerful interests that marshal their power every day in Washington to drown out the voices of everyday Americans.”³

January 26, 2010: An internal memo from Media Matters founder David Brock explains how its 501(c)(4)-affiliate, Media Matters Action Network, will use disclosure information to its political advantage.⁴ According to the memo, if a hypothetical company (ACME) supports a conservative candidate or cause, “Media Matters Action Network will track all ACME campaign expenditures in its database and may aggressively attack ACME, or provide the information to progressive partners to attack ACME for supporting policies” that it opposes.⁵

January 27, 2010: In his 2010 State of the Union Address, President Barack Obama criticizes the Supreme Court for its ruling in *Citizens United v. Federal Election Commission*: “With all due deference to separation of powers, last week the Supreme Court reversed a century of law that I believe will open the floodgates for special interests – including foreign corporations – to

¹ Warren L. Dean Jr., “DEAN: A Democrat’s IRS about-face,” *The Washington Times*. Retrieved on June 18, 2013. Available at: <http://www.washingtontimes.com/news/2013/jun/17/a-democrats-irs-about-face/> (June 17, 2013).

² U.S. Representative Dave Camp et al., “Letter to Mr. Daniel Werfel, U.S. House of Representatives Committee on Ways and Means. Retrieved on August 5, 2013. Available at: http://waysandmeans.house.gov/uploadedfiles/camp_boustany_fec_7_30.pdf (July 30, 2013), p. 5.

³ Adam Liptak, “Justices, 5-4, Reject Corporate Spending Limit,” *The New York Times*. Retrieved on June 17, 2013. Available at: http://www.nytimes.com/2010/01/22/us/politics/22scotus.html?pagewanted=all&_r=0 (January 21, 2010).

⁴ Ben Smith, “Media Matters political arm to attack corporate spenders,” *Politico*. Retrieved on June 12, 2013. Available at: http://www.politico.com/blogs/bensmith/0110/Media_Matters_Action_Network_to_target_corporate_election_spending.html?sho=wall (January 26, 2010).

⁵ David Brock and Eric Burns, “Media Matters 2012 – A Three-Year Campaign,” Media Matters. Retrieved on June 11, 2013. Available at: <http://www.scribd.com/doc/81500396/Media-Matters-Memo#page=83>, (January 26, 2010), p. 84.

spend without limit in our elections. I don't think American elections should be bankrolled by America's most powerful interests, or worse, by foreign entities..."⁶

February 11, 2010: Senator Chuck Schumer (D-NY) announces his intention to introduce a proposal known as the DISCLOSE Act, shorthand for "Democracy is Strengthened by Casting Light on Spending in Elections." Schumer claims that the Act will target corporations that make political expenditures and "make them think twice." He also says "The deterrent effect [of the DISCLOSE Act] should not be underestimated."⁷

March 2010: According to the Treasury Inspector General for Tax Administration, the IRS Determinations Unit first started "searching for other requests for tax exemption involving the Tea Party, Patriots, 9/12, and...501(c)(4) applications involving political sounding names, e.g., 'We the People' or 'Take Back the Country'" in March 2010.⁸ This is the first known instance of the IRS targeting groups of a conservative political orientation applying for tax-exempt status.

April 29, 2010: Representative Chris Van Hollen introduces the House version of the DISCLOSE Act (H.R. 5175). One of the bill's cosponsors, Representative Walter Jones (R-NC), remarks upon the bill's introduction: "I don't know many people in Eastern North Carolina who believe...that Chinese or Russian-flagged companies should be able to spend unlimited amounts to influence U.S. elections, or that Wall Street banks should be allowed to spend their bailout money on campaign ads."⁹

June 24, 2010: The DISCLOSE Act passes the House of Representatives 219-206, with only two Republican Representatives voting in support of the bill.¹⁰

July 2010 – Present: True the Vote, a Houston-based nascent conservative grassroots organization, applies for IRS tax-exempt status. In the following months, it endures six FBI domestic terrorism inquiries, investigations by the Occupational Safety and Health Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and Texas environmental quality officials, as well as multiple IRS audits and five IRS requests for additional information about the organization. At the time of publication, True the Vote's tax-exempt application is still pending.¹¹

⁶ President Barack Obama et al., "Remarks by the President in State of the Union Address," The White House, Office of the Press Secretary. Retrieved on: June 17, 2013. Available at: <http://www.whitehouse.gov/the-press-office/remarks-president-state-union-address> (January 27, 2010).

⁷ Jess Bravin and Brody Mullins, "New Rules Proposed On Campaign Donors," *The Wall Street Journal*. Retrieved on June 17, 2013. Available at: <http://online.wsj.com/article/SB10001424052748703382904575059941933737002.html> (February 12, 2010).

⁸ J. Russell George, "Inappropriate Criteria Were Used to Identify Tax-Exempt Groups for Review," Treasury Inspector General for Tax Administration. Retrieved on June 13, 2013. Available at: <http://www.treasury.gov/tigta/auditreports/2013reports/201310053fr.pdf>, (May 14, 2013), p. 36.

⁹ U.S. Representative Chris Van Hollen, "Van Hollen, Castle, Jones, Brady Announce DISCLOSE Act to Address Citizens United Ruling," Office of U.S. Representative Chris Van Hollen. Retrieved on June 17, 2013. Available at: <http://vanhollen.house.gov/news/documentsingle.aspx?DocumentID=183368> (April 29, 2010).

¹⁰ "FINAL VOTE RESULTS FOR ROLL CALL 391," United States House of Representatives. Retrieved on June 17, 2013. Available at: <http://clerk.house.gov/evs/2010/roll391.xml> (June 24, 2010).

¹¹ Sharyl Attkisson and Kim Skeen, "What's going on between the IRS and True the Vote?" *CBS News*. Retrieved on June 25, 2013. Available at: http://www.cbsnews.com/8301-250_162-57586763/whats-going-on-between-the-irs-and-true-the-vote/ (May 29, 2013).

July 21, 2010: Senator Chuck Schumer formally introduces the DISCLOSE Act, S. 3628, in the U.S. Senate.¹² The bill has no Republican cosponsors.

July 27, 2010: The DISCLOSE Act fails its first vote in the Senate, as Democrats fail to invoke cloture (57-41) to proceed to consideration of the bill.¹³

***August 9, 2010:** In Texas, President Obama for the first time publicly names a group he is obsessed with—Americans for Prosperity (founded by the Koch Brothers)—and warns about conservative groups. Taking up a cry that had until then largely been confined to left-wing media and activists, he says: “Right now all around this country there are groups with harmless-sounding names like Americans for Prosperity, who are running millions of dollars of ads...And they don't have to say who exactly the Americans for Prosperity are. You don't know if it's a foreign-controlled corporation.”

***August 11, 2010:** The Democratic Congressional Campaign Committee sends out a fundraising email warning about “Karl Rove-inspired shadow groups.”

***August 21, 2010:** Mr. Obama devotes his weekly radio address to the threat of “attack ads run by shadowy groups with harmless-sounding names. We don't know who's behind these ads and we don't know who's paying for them.... You don't know if it's a foreign-controlled corporation.... The only people who don't want to disclose the truth are people with something to hide.”

***Week of August 23, 2010:** *The New Yorker's* Jane Mayer authors a hit piece on the Koch brothers, entitled “Covert Operations,” in which she accuses them of funding “political front groups.” The piece repeats the White House theme, with Ms. Mayer claiming the Koch's have created “slippery organizations with generic-sounding names” that have “made it difficult to ascertain the extent of their influence in Washington.”

***August 27, 2010:** White House economist Austan Goolsbee, in a background briefing with reporters, accuses Koch industries of being a pass-through entity that does “not pay corporate income tax.” The Treasury Inspector General investigates how it is that Mr. Goolsbee might have confidential tax information. The report has never been released. This same week, the Democratic Party files a complaint with the IRS claiming the Americans for Prosperity Foundation is violating its tax-exempt status.

***September 2, 2010:** The Democratic Congressional Campaign Committee warns on its website that the Koch's have “funneled their money into right-wing shadow groups.”

***September 16, 2010:** Mr. Obama, in Connecticut, repeats that a “foreign-controlled entity” might be funding “millions of dollars of attack ads.” Four days later, in Philadelphia, he again says the problem is that “nobody knows” who is behind conservative groups.

¹² “Bill Summary & Status 111th Congress (2009 - 2010) S.3628 All Congressional Actions,” The Library of Congress. Retrieved on June 17, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/z?d111:SN03628:@@X> (July 21, 2010).

¹³ Vote Summary on the Motion to Invoke Cloture on the Motion to Proceed to S. 3628. United States Senate. Retrieved on June 17, 2013. Available at: http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=2&vote=00220 (July 27, 2010).

***September 21, 2010:** Sam Stein, in his Huffington Post article “Obama, Dems Try to Make Shadowy Conservative Groups a Problem for Conservatives,” writes that a “senior administration official” had “urged a small gathering of reporters to start writing on what he deemed ‘the most insidious power grab that we have seen in a very long time.’”

***September 22, 2010:** In New York City, Mr. Obama warns that conservative groups “pose as non-for-profit, social welfare and trade groups,” even though they are “guided by seasoned Republican political operatives” who might be funded by a “foreign-controlled corporation.”

September 23, 2010: Upon reconsideration in the Senate, the 2010 Senate version of the DISCLOSE Act (S. 3628) dies in the Senate, as Democrats fell one vote short of invoking cloture (59-39) to proceed to consideration of the bill.¹⁴

***September 26, 2010:** On ABC's “This Week,” Obama senior adviser David Axelrod declares outright that the “benign-sounding Americans for Prosperity, the American Crossroads Fund” are “front groups for foreign-controlled companies.”

***September 28, 2010:** The President, in Wisconsin, again warns about conservative organizations “posing as nonprofit groups.” Senator Max Baucus, Chairman of the Senate Finance Committee, writes to the IRS demanding it investigate nonprofits, citing “recent media reports” as his cause for concern. The letter names conservative organizations.

October 5, 2010: J. Gerald Hebert, Executive Director of Campaign Legal Center, and Fred Wertheimer, President of Democracy 21, write the first in a long series of letters to the IRS saying, “the IRS should investigate whether Crossroads GPS has a primary purpose of ‘participation or intervention in political campaigns on behalf of or in opposition to’ candidates for public office...”¹⁵

October 11, 2010: In a letter to the IRS, Senator Dick Durbin (D-IL) asks the agency to “quickly examine the tax status of Crossroads GPS and other (c)(4) organizations that are directing millions of dollars into political advertising.”¹⁶

***October 14, 2010:** Mr. Obama calls these nonprofit groups “a problem for democracy.”

October 20, 2010: Pro-“reform” group Public Citizen demands IRS and FEC investigations of the American Future Fund (a conservative 501(c)(4) organization), saying “American Future

¹⁴ “Vote Summary on the Motion to Invoke Cloture on the Motion to Proceed to S. 3628,” United States Senate. Retrieved on June 17, 2013. Available at: http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=2&vote=00240 (September 23, 2010).

¹⁵ J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Send Treasury IG Previous Requests Urging IRS Action Against Groups Improperly Claiming 501(c)(4) Status,” Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2013/05/Letters-to-IRS.pdf> (October 5, 2010), p. 15.

¹⁶ U.S. Senator Richard J. Durbin, “DURBIN URGES IRS TO INVESTIGATE SPENDING BY CROSSROADS GPS,” Office of Senator Richard J. Durbin. Retrieved on June 17, 2013. Available at: <http://www.durbin.senate.gov/public/index.cfm/pressreleases?ID=833d8f1e-bbdb-4a5b-93ec-706f0cb9cb99> (October 12, 2010).

Fund is pulling out the stops to ensure that Republicans are elected this November,” and “hiding behind [its] nonprofit tax status.”¹⁷

***October 22, 2010:** The President slams those who “hide behind these front groups.”

***October 25, 2010:** President Obama upgrades them to a “threat to our democracy.”

***October 26, 2010:** Mr. Obama decries groups engaged in “unsupervised spending.”

April 20, 2011: White House officials confirm that President Obama is considering an Executive Order that would require all government contractors to disclose their donations to any politically active organizations. Senate Minority Leader Mitch McConnell (R-KY) denounces the proposal as “a cynical effort to muzzle critics of this administration and its allies.”¹⁸

May 12, 2011: *The New York Times* reports that the IRS intends to “invok[e] a provision that had rarely, if ever, been enforced” to collect “gift taxes” from major donations to organizations such as Crossroads GPS and Americans for Prosperity.¹⁹ *The Wall Street Journal* would later report that the IRS invoked the obscure provision to audit five donors to Freedom’s Watch, a conservative section 501(c)(4) organization already undergoing an IRS audit itself.²⁰

July 7, 2011: Facing opposition and accusations of political bias from Republicans in Congress, the IRS suspends its open investigations into whether certain donors are liable for gift taxes, saying it needs more time “to determine whether there is a need for further guidance in this area.”²¹

July 27, 2011: Campaign Legal Center and Democracy 21 petition the IRS to adopt “new regulations to stop section 501(c)(4) organizations from being improperly used to inject tens of millions of dollars in secret contributions into federal elections.”²²

August 3, 2011 – Present: A group of ten law professors submits a rulemaking petition to the SEC “that would require public companies to disclose information about their political

¹⁷ Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 6-7.

¹⁸ Perry Bacon Jr. and T.W. Farnam, “Obama weighs disclosure order for contractors,” *The Washington Post*. Retrieved on June 12, 2013. Available at: http://www.washingtonpost.com/politics/obama-weighs-disclosure-order-for-contractors/2011/04/20/AFBw7qEE_story.html (April 20, 2011).

¹⁹ Stephanie Strom, “I.R.S. Moves to Tax Gifts to Groups Active in Politics,” *The New York Times*. Retrieved on June 18, 2013. Available at: http://www.nytimes.com/2011/05/13/business/13gift.html?_r=0 (May 12, 2011).

²⁰ John D. McKinnon and Dionne Searcey, “Donors to GOP Group Drew IRS Scrutiny,” *The Wall Street Journal*. Retrieved on June 17, 2013. Available at: <http://online.wsj.com/article/SB10001424127887324682204578517563566848922.html> (May 31, 2013).

²¹ Steven T. Miller, “MEMORANDUM FOR COMMISSIONER, SMALL BUSINESS/SELF-EMPLOYED DIVISION COMMISSIONER, TAX-EXEMPT AND GOVERNMENT ENTITIES DIVISION,” Internal Revenue Service. Retrieved on June 18, 2013. Available at: http://www.irs.gov/pub/newsroom/guidance_for_irs_sbse_estate_and_gift_tax_and_tege_exempt_organizations.pdf (July 7, 2011).

²² Fred Wertheimer et al., “Democracy 21 and Campaign Legal Center Challenge Legality of IRS Regulations as Failing to Properly Limit Campaign Activity by 501(c)(4) Organizations,” Democracy 21. Retrieved on June 13, 2013. Available at: http://democracy21.org/uploads/IRS_PETITION_JULY_27_2011.pdf (July 27, 2011), p. 18-19.

spending.”²³ In the following months, it gathers support from “a loose coalition of Democratic elected officials, shareholder activists and pension funds” calling on the Commission “to require publicly traded corporations to disclose to shareholders all of their political donations”²⁴ Former SEC senior staff write to former Chairman Mary Shapiro, saying “the mechanisms already exist, and...people are using them.”²⁵

September 28, 2011: A letter authored by Campaign Legal Center and Democracy 21 says “the IRS should conduct an investigation of whether [Crossroads GPS, Priorities USA, American Action Network, and Americans Elect] has engaged in more than an insubstantial amount of non-exempt activity...”²⁶

November 1, 2011: Senator Tom Udall (D-NM) introduces S.J. Res. 29, which proposes an amendment to the Constitution giving Congress “power to regulate the raising and spending of money and in kind equivalents with respect to Federal elections...”²⁷ The measure was referred to the Senate Judiciary Committee, but failed to receive a hearing.²⁸

November 15, 2011: U.S. Representative Jim McGovern (D-MA) introduces the “People’s Rights” Amendment (H.J. Res. 88), which restricts “the rights protected by this Constitution” to “the rights of natural persons,” and grants Congress power to implement any and all regulation of corporate entities.²⁹ The proposed amendment was referred to the House Judiciary Committee, but never received a hearing.³⁰

December 14, 2011: In a third letter to the IRS, Campaign Legal Center and Democracy 21 say “the failure of the IRS to carry out its statutory enforcement responsibilities to prevent the abuse of the tax laws could have a major impact on the 2012 elections,” and they “urge the IRS in the

²³ Lucian A. Bebchuk, “Letting Shareholders Know How Their Money Is Spent,” *The New York Times DealBook*. Retrieved on June 12, 2013. Available at: <http://dealbook.nytimes.com/2012/11/14/letting-shareholders-know-how-their-money-is-spent/> (November 14, 2012).

²⁴ Nicholas Confessore, “S.E.C. Is Asked to Require Disclosure of Donations,” *The New York Times*. Retrieved on June 25, 2013. Available at: http://www.nytimes.com/2013/04/24/us/politics/sec-is-asked-to-make-companies-disclose-donations.html?pagewanted=all&_r=0 (April 23, 2013).

²⁵ Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 3.

²⁶ J. Gerald Hebert and Fred Wertheimer, “Democracy 21 and Campaign Legal Center Challenge Tax Exempt Status of Crossroads GPS, Priorities USA, American Action Network and Americans Elect, Urge Prompt Investigations and Action by Internal Revenue Service,” Democracy 21. Retrieved on June 13, 2013. Available at: http://democracy21.org/uploads/Letter_to_the_IRS_from_Democracy_21_and_Campaign_Legal_Center_9_28_2011.pdf (September 28, 2011), p. 23.

²⁷ U.S. Senator Tom Udall et al., “S.J. Res. 29,” Government Printing Office. Retrieved on June 26, 2013. Available at: <http://www.gpo.gov/fdsys/pkg/BILLS-112sjres29is/pdf/BILLS-112sjres29is.pdf> (November 1, 2011), p. 2.

²⁸ “Bill Summary & Status 112th Congress (2011 - 2012) S.J. Res. 29 All Congressional Actions,” The Library of Congress. Retrieved on June 26, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/D?d112:1:/temp/~bdmomZ:@@X/home/LegislativeData.php?n=BSS:c=112> (November 1, 2011).

²⁹ U.S. Representative James P. McGovern et al., “H.J. Res. 88,” Government Printing Office. Retrieved on June 26, 2013. Available at: <http://www.gpo.gov/fdsys/pkg/BILLS-112hjres88ih/pdf/BILLS-112hjres88ih.pdf> (November 15, 2011), p. 2.

³⁰ “Bill Summary & Status 112th Congress (2011 - 2012) H.J. Res. 88 All Congressional Actions,” The Library of Congress. Retrieved on June 26, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/D?d112:14:/temp/~bdpy0e:@@X/home/LegislativeData.php?n=BSS:c=112> (November 15, 2011).

strongest possible terms to expeditiously examine the matters we have brought to its attention...before it is too late.”³¹

January 2012: The IRS begins sending letters explaining that applications for tax-exempt status cannot be evaluated until the groups complete lengthy and complex questionnaires, some of which ask over 80 questions and include requests for “all copies of...corporate minutes from inception to present,” and “how each compensation package was determined” for all “directors, officers, or key employees,” past and present.³²

February 9, 2012: For a second time, Representative Chris Van Hollen introduces the DISCLOSE Act in the House of Representatives, where it eventually dies in the House Administration and House Judiciary Committees.³³

February 16, 2012: A joint letter from Senators Michael Bennet (D-CO), Al Franken (D-MN), Jeff Merkley (D-OR), Chuck Schumer (D-NY), Jeanne Shaheen (D-NH), Tom Udall (D-NM), and Sheldon Whitehouse (D-RI) asks the IRS to investigate tax-exempt organizations’ political activities.³⁴ In Senator Bennet’s accompanying press release, he opines that “operations such as Mr. [Karl] Rove’s [Grassroots GPS] should not be allowed to masquerade as charities.”³⁵

March 6, 2012: *The New York Times* reports the IRS has begun scrutinizing “dozens” of Tea Party organizations, “demanding to know their political leanings and activities.”³⁶

March 9, 2012: A fourth letter from Campaign Legal Center and Democracy 21 again asks “the IRS to move forward expeditiously to investigate the groups we have identified in our earlier letters...”³⁷

March 12, 2012: Led by Senator Charles Schumer, the seven Senators who sent the February 16, 2012 letter to the IRS send a second letter to the Agency demanding additional investigation and regulation of 501(c)(4) groups, declaring that they suspect “abuse of the tax code by political

³¹ J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Send Treasury IG Previous Requests Urging IRS Action Against Groups Improperly Claiming 501(c)(4) Tax Status,” Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2013/05/Letters-to-IRS.pdf> (December 14, 2011), p. 40.

³² Exempt Organizations Specialist, “Letter 1312,” Internal Revenue Service. Retrieved on June 12, 2013. Available at: <http://www.documentcloud.org/documents/323502-letter-from-the-irs-to-tea-party-organizations.html> (January 26, 2012).

³³ “H.R. 4010 (112th): DISCLOSE 2012 Act,” Govtrack.us. Retrieved on June 17, 2013. Available at: <http://www.govtrack.us/congress/bills/112/hr4010> (February 9, 2012).

³⁴ U.S. Senator Tom Udall et al., “Senators Call for IRS Investigations into Potential Abuse of Tax-Exempt Status by Groups Engaged in Campaign Activity,” Office of Senator Tom Udall. Retrieved on June 17, 2013. Available at: http://www.tomudall.senate.gov/?p=press_release&id=1026 (February 16, 2012).

³⁵ U.S. Senator Michael Bennet, “Senators Call for IRS Investigations into Potential Abuse of Tax-Exempt Status by Groups Engaged in Campaign Activity,” Office of Senator Michael F. Bennet. Retrieved on June 17, 2013. Available at: <http://www.bennet.senate.gov/newsroom/press/release/senators-call-for-irs-investigations-into-potential-abuse-of-tax-exempt-status-by-groups-engaged-in-campaign-activity> (February 16, 2012).

³⁶ Jonathan Weisman, “Scrutiny of Political Nonprofit Sets Off Claim Of Harassment,” *The New York Times*. Retrieved on June 12, 2013. Available at: http://www.nytimes.com/2012/03/07/us/politics/irs-scrutiny-of-political-groups-stirs-harassment-claim.html?_r=0 (March 6, 2012).

³⁷ J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Call on IRS to Ignore Efforts to Dissuade the Agency from Investigating Eligibility of Political Groups for Tax-Exempt Status as 501(c)(4) “Social Welfare” Groups, Democracy 21. Retrieved on June 13, 2013. Available at: http://www.democracy21.org/uploads/Letter_to_IRS_Requesting_Investigation_of_501c4_Organizations_3_9_2012.pdf (March 9, 2012), p. 3.

groups” and asking the agency to enforce a strict cap on political spending by 501(c)(4) groups. The letter also vows, “if the IRS is unable to issue administrative guidance in this area then we plan to introduce legislation to accomplish these important changes [to section 501(c)(4) of the Internal Revenue Code].”³⁸

March 14, 2012: On the heels of Senator Schumer’s letter two days prior, twelve Republican Senators, including Senate Finance Committee Ranking Member Orrin Hatch (R-UT), Rob Portman (R-OH), Minority Leader Mitch McConnell (R-KY), and Rand Paul (R-KY) send a letter to then-IRS Commissioner Dan Shulman regarding “excessive” IRS inquiries into grassroots Tea Party organizations, seeking “assurance that this recent string of inquiries has a sound basis in law and is consistent with the IRS’s treatment of tax-exempt organizations across the spectrum.”³⁹

March 21, 2012: Senator Sheldon Whitehouse introduces a new version of the DISCLOSE Act, S. 2219. The bill later dies in the Senate Committee on Rules and Administration.⁴⁰

March 22, 2012: Campaign Legal Center and Democracy 21 press the IRS for action on its 2011 rulemaking petition, saying “absent such action by the IRS, the agency will bear direct responsibility for the misuse and abuse of the tax laws by groups that are flooding our elections with secret money.”⁴¹

April 12, 2012: SEC Commissioner Luis Aguilar attempts to add a commitment to the rulemaking proposal (see Aug. 3, 2011 entry) to the Agency’s agenda. A bipartisan majority of the five SEC Commissioners declines, approving the agenda in its original form.⁴²

April 16, 2012: Representative Anna Eshoo (D-CA), Ranking Member of the House Communications and Technology Subcommittee, writes a letter to FCC Chairman Julius Genachowski, supporting a proposed regulation that would require TV broadcasters to make their public file, including political advertisers, available online.⁴³

April 17, 2012: Campaign Legal Center and Democracy 21 send a sixth letter to the IRS to “again call on the IRS to investigate and take appropriate enforcement action against Crossroads

³⁸ U.S. Senator Charles E. Schumer et al., “SENATE DEMOCRATS URGE IRS TO IMPOSE STRICT CAP ON POLITICAL SPENDING BY NONPROFIT GROUPS—VOW LEGISLATION IF AGENCY DOESN’T ACT,” Office of Senator Charles E. Schumer. Retrieved on June 12, 2013. Available at: <http://www.schumer.senate.gov/Newsroom/record.cfm?id=336270> (March 12, 2012).

³⁹ Senator Orrin Hatch and Senator Rob Portman, et al., “Senators to IRS: Don’t Let Politics Trump Policy on Non-Profit Group Designations,” United States Senate Committee on Finance. Retrieved on June 25, 2013. Available at: <http://www.finance.senate.gov/newsroom/ranking/release/?id=b49bd610-6a0f-4ea5-bea2-8ce37e2e5e04> (March 14, 2012).

⁴⁰ “S. 2219 (112th): Democracy is Strengthened by Casting Light On Spending in Elections Act of 2012,” Govtrack.us. Retrieved on June 17, 2013. Available at: <http://www.govtrack.us/congress/bills/112/s2219> (March 21, 2012).

⁴¹ J. Gerald Hebert and Fred Wertheimer, “Democracy 21 and Campaign Legal Center Again Call on IRS to Initiate Rulemaking Proceeding to Revise and Clarify Eligibility Requirements for 501(c)(4) Tax-Exempt Status,” Democracy 21. Retrieved on June 13, 2013. Available at: http://www.democracy21.org/uploads/Letter_to_IRS_re_Petition_for_rulemaking_on_501c4_groups.pdf (March 22, 2012), p. 4.

⁴² Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 4.

⁴³ U.S. Representative Anna G. Eshoo, “Letter to Julius Genachowski,” Congress of the United States. Retrieved on June 24, 2013. Available at: http://eshoo.house.gov/images/stories/4.16.12_Public_Files_Letter_to_FCC.pdf (April 16, 2012).

GPS regarding its claimed status as a section 501(c)(4) tax-exempt ‘social welfare’ organization.”⁴⁴

April 23, 2012: IRS Chief Counsel William Wilkins meets with President Barack Obama two days before his office releases new guidelines for scrutinizing tea-party groups seeking tax-exempt status.⁴⁵ An unnamed attorney in the IRS was appalled: “In my seven years of working at a general counsel’s office, I have never once heard of our general counsel meeting with the President. OLC [White House Office of Legal Counsel] would go crazy if he did. I have worked on a couple of legal opinions that did go to the White House. And each time they were staffed through OLC...So I can’t for the life of me come up with any kind of innocent explanation for why Obama would have met with the chief counsel of the IRS. That meeting shouldn’t ever happen, and especially not without the commissioner of the IRS being there.”⁴⁶

April 26, 2012: IRS Deputy Commissioner Steven Miller responds to GOP Senators’ March 14 letter. According to Senator Hatch’s Finance Committee office, “the letter does not acknowledge that the IRS had inappropriately targeted tea party groups or asked improper questions about their contributors.”⁴⁷

May 24, 2012: In yet another joint letter from Campaign Legal Center and Democracy 21, the authors demand that the IRS “deny the pending application submitted by Crossroads GPS to obtain section 501(c)(4) tax status.”⁴⁸ The letter heavily bases its claims about Crossroads GPS on a May 22, 2012 article in *The New York Times*.

June 18, 2012: Eleven Republican Senators, led by Orrin Hatch and Mitch McConnell, demand that the IRS explain its rationale for requesting confidential donor lists as part of its evaluation of tax-exempt status applications. In their letter, the Senators caution that “the public release of private donor information exposes citizens to possible harassment and intimidation.”⁴⁹

June 20, 2012: In a press release from Public Citizen, Craig Holman, the organization’s Government Affairs Lobbyist, calls for the FEC to scrutinize Crossroads GPS, saying it “appears

⁴⁴ J. Gerald Hebert and Fred Wertheimer, “Democracy 21 and Campaign Legal Center Again Call on IRS to Investigate Eligibility of Crossroads GPS for Tax-Exempt Status as ‘Social Welfare’ Organization,” Democracy 21. Retrieved on June 13, 2013. Available at: http://www.democracy21.org/uploads/IRS_LETTER_CROSSROADS_GPS_4_17_12.pdf (April 17, 2012), p. 1.

⁴⁵ Patrick Howley, “Embattled IRS chief counsel met with Obama 2 days before agency changed targeting criteria,” *The Daily Caller*. Retrieved on August 5, 2013. Available at: <http://dailycaller.com/2013/07/22/embattled-irs-chief-counsel-met-with-obama-2-days-before-writing-new-targeting-criteria/> (July 22, 2013).

⁴⁶ Sue Reisinger, “IRS Chief Counsel Continues to Draw Critical Fire,” *Corporate Counsel*. Retrieved on August 5, 2013. Available at: <http://www.law.com/corporatecounsel/PubArticleFriendlyCC.jsp?id=1202612653261&slreturn=20130705111802> (July 29, 2013).

⁴⁷ Julia Lawless and Antonia Ferrier, “Timeline of Key Events Surrounding IRS Targeting of Conservative Groups,” United States Senate Committee on Finance. Retrieved on June 25, 2013. Available at: <http://www.finance.senate.gov/newsroom/ranking/release/?id=916a4628-a5c2-4240-b659-3aaaa93290f1> (May 13, 2013).

⁴⁸ J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Submit New Information to IRS Showing Crossroads GPS Not Entitled to Section 501(c)(4) Tax-Exempt Status,” Democracy 21. Retrieved on June 13, 2013. Available at: http://www.democracy21.org/uploads/IRS_LETTER_CROSSROADS_GPS_5_24_12%281%29.pdf (May 24, 2012), p. 4.

⁴⁹ U.S. Senator Orrin Hatch et al., “Senators to IRS: Congress has Made Privacy the Rule, Not the Exception,” United States Senate Committee on Finance. Retrieved on June 25, 2013. Available at: <http://www.finance.senate.gov/newsroom/ranking/release/?id=16db8888-3c42-4e08-a203-f7d8e5b6428f> (June 18, 2012).

to serve little purpose other than buying Congress and the White House in the 2012 elections, and therefore appears to be in clear violation of the law.”⁵⁰

July 9, 2012: Former Rep. Barney Frank (D-MA) and then-Ranking Member of the House Financial Services Committee writes to the SEC Office of Legislative and Intergovernmental Affairs, inquiring about “SEC authority to require disclosure on corporate charitable [sic] contributions. There is particular interest in what the authority is for disclosure of 501(c)(4) contributions.”⁵¹

July 10, 2012: Senator Sheldon Whitehouse re-introduces the DISCLOSE Act of 2012 (S. 3369), where it faces further Republican opposition.⁵²

July 12, 2012: A letter from The Campaign Legal Center urges senators to support the DISCLOSE Act, calling it an “urgently needed legislative response to the new types of high-dollar, anonymously-funded political spending triggered by the Supreme Court’s decision in *Citizens United v. FEC*.”⁵³

July 16, 2012: A letter from Americans for Campaign Reform, the Brennan Center for Justice, Campaign Legal Center, Citizens for Responsibility and Ethics in Washington, Common Cause, Democracy 21, League of Women Voters, People for the American Way, Public Citizen, and Sunlight Foundation urges Senators to vote for cloture on the DISCLOSE Act, calling the vote “a clear choice: vote for public disclosure to inform citizens about the donors providing funds to influence their votes, or vote to protect secret money.”⁵⁴

July 16, 2012: The DISCLOSE Act of 2012 fails to pass a Senate vote for cloture. Senate Majority Leader Harry Reid (D-NV) insists that wealthy conservative donors are on the cusp of purchasing the 2012 elections: “If this flood of outside money continues, the day after the election, 17 angry old white men will wake up and realize they’ve just bought the country.”⁵⁵

July 17, 2012: The IRS responds to Campaign Legal Center’s and Democracy 21’s 2011 petition (see July 27, 2011 and March 22, 2012 entries), promising to “consider proposed

⁵⁰ Craig Holman, “Obama Campaign Joins the Calls for an FEC Investigation of Crossroads GPS,” Public Citizen. Retrieved on June 13, 2013. Available at: <http://www.citizen.org/pressroom/pressroomredirect.cfm?ID=3636> (June 20, 2012).

⁵¹ Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 4, p. 5.

⁵² “Bill Summary & Status 112th Congress (2011 - 2012) S.3369 All Congressional Actions,” The Library of Congress. Retrieved on June 17, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/z?d112:SN03369:@@X/home/LegislativeData.php?n=BSS;c=112> (July 10, 2012).

⁵³ J. Gerald Herbert and Meredith McGehee, “July 12, 2012 - Legal Center Urges Senators to Pass DISCLOSE Act,” The Campaign Legal Center. Retrieved on June 17, 2013. Available at:

http://www.campaignlegalcenter.org/index.php?option=com_content&view=article&id=1789:july-12-2012-legal-center-urges-senators-to-pass-disclose-act-&catid=63:legal-center-press-releases&Itemid=61 (July 12, 2012).

⁵⁴ Democracy 21 et al., “Reform Groups Urge Senators to Vote for Cloture on DISCLOSE Act,” Democracy 21. Retrieved on June 17, 2013. Available at: <http://www.democracy21.org/archives/whats-new/reform-groups-urge-senators-to-vote-for-cloture-on-disclose-act/> (July 16, 2012).

⁵⁵ Manu Raju, “Reid: ‘Angry old white men’ trying to buy elections,” *Politico*. Retrieved on June 12, 2013. Available at: <http://www.politico.com/blogs/on-congress/2012/07/reid-angry-white-men-trying-to-buy-elections-129067.html> (July 16, 2012).

changes in this area as we work...to identify tax issues that should be addressed through regulations...”⁵⁶

July 23, 2012: Campaign Legal Center and Democracy 21 “welcome” the IRS’ response to their petitions, but call for urgent action and warn that “the failure of the IRS to take action on this matter has allowed groups...to make assertions about IRS rules that are unsupported by law, and thereby to provide a veil of secrecy for the donors financing their campaign-related expenditures.” The letter also singles out Crossroads GPS as the “biggest and most blatant example of massive campaign spending by a group claiming tax-exempt status as a section 501(c)(4) ‘social welfare’ organization.”⁵⁷

August 6, 2012: Perturbed by the IRS’s vow to “consider proposed changes” in its July 17 response to Campaign Legal Center and Democracy 21’s joint 2011 rulemaking petition, Senator Orrin Hatch and nine other GOP Senators warn: “We believe these petitions have less to do with concerns about the sanctity of the tax code and more about setting the tone for the upcoming presidential election, and we urge you to resist allowing the IRS rulemaking process to be subverted to achieve partisan political gains.”⁵⁸

August 9, 2012: Campaign Legal Center and Democracy 21 send a ninth joint letter to the IRS, characterizing opposition to their 2011 rulemaking petition as “a partisan effort to allow pro-Republican campaign groups like Crossroads GPS to continue hiding their donors from the American people...”⁵⁹

August 21, 2012: Campaign Legal Center and Democracy 21 write to the IRS, apparently to bring a single ProPublica article on the activity of 501(c)(4)’s to the agency’s attention. The letter simply explains that they “believe the report further documents the case we have made in a series of letters.”⁶⁰

August 29, 2012: When asked about *Citizens United* during an online Q&A session on the website *Reddit*, President Barack Obama responds, “We need to seriously consider mobilizing a constitutional amendment process to overturn *Citizens United*.”⁶¹

⁵⁶ Julie Bykowicz, “IRS ‘Will Consider’ Changes for Tax-Exempt Groups in Politics,” *Bloomberg*. Retrieved on June 12, 2013. Available at: <http://go.bloomberg.com/political-capital/2012-07-23/irs-will-consider-changes-for-tax-exempt-groups-in-politics/> (July 23, 2012), p. 1.

⁵⁷ J. Gerald Hebert and Fred Wertheimer, “IRS Responds to Rulemaking Petition Submitted by Democracy 21 and Campaign Legal Center, Says Agency Will Consider Changing Rules for 501(c)(4) Eligibility,” Democracy 21. Retrieved on June 13, 2013. Available at: http://www.democracy21.org/uploads/IRS_letter_-_July_21_2012.pdf (July 23, 2012), p. 3, 5.

⁵⁸ U.S. Senator Orrin Hatch et al., “Senators Want IRS to Clarify Intentions for 501(c)(4) Organizations,” United States Senate Committee on Finance. Retrieved on June 25, 2013. Available at: <http://www.finance.senate.gov/newsroom/ranking/release/?id=e00414de-2b2c-4954-8c9e-669e9fccff12> (August 6, 2012).

⁵⁹ J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Call on IRS to Ignore Partisan Pressure From Republican Senators and Proceed to Consider New Eligibility Rules for 501(c)(4) Organizations,” Democracy 21. Retrieved on June 13, 2013. Available at: http://www.democracy21.org/uploads/Final_Letter_to_IRS_08_09.pdf (August 9, 2012), p. 3.

⁶⁰ J. Gerald Hebert and Fred Wertheimer, “Letter to IRS Enclosing ProPublica Report on 501(c)(4) Organizations,” Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/archives/key-documents-archives/democracy-21-letters-and-reports/letter-to-irs-enclosing-propublica-report-on-501c4-organizations/> (August 21, 2012).

⁶¹ Paul Blumenthal, “Obama Endorses Anti-Citizens United Amendment In Reddit Chat,” *The Huffington Post*. Retrieved on June 26, 2013. Available at: http://www.huffingtonpost.com/2012/08/29/barack-obama-citizens-united-reddit_n_1841258.html (August 29, 2012).

September 2012: Under pressure from Democratic Leadership in Congress and numerous pro-regulation organizations,⁶² SEC Commissioners place the proposed donor disclosure rule on its rulemaking agenda, signaling their intention to decide whether to recommend the rule change. It is the most significant progress the proposed rule has made thus far.⁶³

September 19, 2012: Senator Carl Levin (D-MI) demands that the IRS take a more active role in inspecting tax-exempt groups, saying “The Internal Revenue Service (IRS) – the organization that grants these groups their tax-exempt status in the first place – should be protecting the voting public from these groups that pretend to be acting in the social welfare but are instead engaging in partisan politics.”⁶⁴

September 27, 2012: The eleventh letter from Campaign Legal Center and Democracy 21 to the IRS advocates “denying Crossroads GPS tax-exempt status and...imposing appropriate penalties on the organization.”⁶⁵

October 4, 2012: Roughly a month before the 2012 general election, Representative Elijah Cummings (D-MD), Ranking Member of the House Oversight and Government Reform Committee, launches an investigation into True the Vote (TTV), a grassroots election-integrity organization, requesting extensive documentation from TTV and questioning the legality of the organization’s activities.⁶⁶

October 7, 2012: Lisa Gilbert, of campaign finance “reform” group Public Citizen, writes in *USA Today*, “The Internal Revenue Service (IRS) should take more care as it classifies groups to ensure they don't allow sham non-profits to register as 501(c)(4)s,” and urges Federal Communications Commissioner (FCC) and Securities and Exchange Commission (SEC) involvement.⁶⁷

November 6, 2012: Colorado voters approve the Colorado Corporate Contributions Amendment (Amendment 65),⁶⁸ a ballot measure asking Colorado’s Congressional delegation to

⁶² Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 8.

⁶³ Jesse Hamilton and Jonathan Salant, “Political-Disclosure Rule Seekers See Hopeful Sign on SEC Agenda,” *Bloomberg*. Retrieved on June 12, 2013. Available at: <http://www.bloomberg.com/news/2013-01-07/political-disclosure-rule-seekers-see-hopeful-sign-on-sec-agenda.html> (January 7, 2013).

⁶⁴ Senator Carl Levin, “Senate Floor Statement on the Internal Revenue Service and 501(c)(4) Organizations,” Office of Senator Carl Levin. Retrieved on June 12, 2013. Available at: <http://www.levin.senate.gov/newsroom/speeches/speech/senate-floor-statement-on-the-internal-revenue-service-and-501c4-organizations/> (September 19, 2012).

⁶⁵ J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Send New Letter to IRS that Further Documents that Crossroads GPS Is Not Entitled to 501(c)(4) Status,” Democracy 21. Retrieved on June 13, 2013. Available at: http://www.democracy21.org/uploads/IRS_LETTER_CROSSROADS_GPS_Sept_27.pdf (September 27, 2012), p. 10.

⁶⁶ U.S. Representative Elijah Cummings, “Letter to Ms. Catherine Engelbrecht,” U.S. House Committee on Oversight and Government Reform. Retrieved on June 24, 2013. Available at: <http://www.scribd.com/doc/110033576/2012-10-04-EEC-to-Engelbrecht-TrueTheVote> (October 4, 2012).

⁶⁷ Lisa Gilbert, “Column: Two steps forward, two steps back,” *USA Today*. Retrieved on June 12, 2013. Available at: <http://www.usatoday.com/story/opinion/2012/10/07/disclosure-corporations-elections-money/1612181/> (October 7, 2012).

⁶⁸ “Amendment 65 - Campaign Finance Limits Election Results,” *The Denver Post*. Retrieved on June 24, 2013. Available at: <http://data.denverpost.com/election/results/amendment/2012/65-campaign-finance-limits/> (June 24, 2013).

propose a Constitutional amendment to reverse *Citizens United* “that allows congress and the states to limit campaign contributions and spending.”⁶⁹

November 6, 2012: Montanans approve Initiative No. 166,⁷⁰ which establishes that “corporations are not entitled to constitutional rights because they are not human beings, and charges Montana elected and appointed officials, state and federal, to implement that policy.” This includes charging its Congressional delegation with proposing a Constitutional amendment to reverse *Citizens United*.⁷¹

December 2012: The Office of Management and Budget announces the SEC “is considering whether to recommend that the Commission issue a proposed rule to require that public companies provide disclosure to shareholders regarding the use of corporate resources for political activities.”⁷²

December 3, 2012: An incredulous letter from Campaign Legal Center and Democracy 21 reacts to the IRS’ published list of agency priorities: “nowhere on this list of 317 agency ‘priorities,’ which includes a list of 13 priorities specifically relating to exempt organizations, is there any mention of a project to revise and clarify the rules dealing with political activities by section 501(c)(4) groups.”⁷³

December 7, 2012: An internal SEC memo from the Agency’s Senior Special Counsel warns that “[the] FEC is the primary federal regulator of political activity disclosure. Formulating a SEC disclosure rule that is not duplicative of other federal and state law requirements and does not raise First Amendment issues may be challenging.”⁷⁴

December 11, 2012: New York Attorney General Eric Schneiderman announces a “far-reaching draft regulation” that “would require any tax-exempt group that does business in New York to disclose what proportion of its total spending went to political activities.” He is required to hold public hearings, but is a legally capable of approving the proposed regulations unilaterally.⁷⁵

December 14, 2012: ProPublica receives Crossroads GPS’ 2010 application for tax-exempt status from the IRS. Because the group’s tax-exempt status had not yet been recognized, the

⁶⁹ Ari Armstrong, “Amendment 65: An intrusion on our right to free speech,” *The Denver Post*. Retrieved on June 25, 2013.

Available at: http://www.denverpost.com/opinion/ci_21647818/no-it-intrudes-our-right-free-speech (September 30, 2012).

⁷⁰ Montana Secretary of State Linda McCulloch, “2012 STATEWIDE GENERAL ELECTION CANVASS,” State of Montana.

Retrieved on June 24, 2013. Available at: http://sos.mt.gov/Elections/2012/2012_General_Canvass.pdf (2012), p. 28.

⁷¹ “BALLOT LANGUAGE FOR INITIATIVE NO. 166 (I-166),” State of Montana. Retrieved on June 24, 2013. Available at: <http://sos.mt.gov/Elections/2012/BalotIssues/I-166.pdf> (2012), p. 1.

⁷² Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 2.

⁷³ J. Gerald Hebert and Fred Wertheimer, “Democracy 21 and the Campaign Legal Center Charge the IRS With Indefensible Abdication of Responsibility,” Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2012/12/IRS-LETTER-PRIORITY-GUIDANCE-PLAN-12-3-12.pdf> (December 3, 2012), p. 1.

⁷⁴ Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 3.

⁷⁵ Nicholas Confessore, “Attorney General Seeks to Force Disclosure of More Political Donors,” *The New York Times*. Retrieved on June 13, 2013. Available at: http://www.nytimes.com/2012/12/12/nyregion/new-york-attorney-general-seeks-to-expose-more-political-donors.html?hp&_r=1& (December 11, 2012).

application was confidential. Despite the IRS' warning that publishing a pending application could result in fines and/or jail time, ProPublica publishes the full application.⁷⁶

December 27, 2012: Senators Ron Wyden (D-OR) and Lisa Murkowski (R-AK) announce their intention to formally introduce a campaign finance "reform" proposal, similar in many ways to the DISCLOSE Act,⁷⁷ which would require nonprofits to disclose their donors and would make the source and amount of each contribution immediately available online "so that the American people are not forced to suffer through another election cycle filled with anonymous sleaze and innuendo."⁷⁸

January – February 2013: New York Comptroller Thomas DiNapoli begins filing lawsuits to force private companies to reveal their political expenditures. The suits were filed on behalf of the state's retirement fund, against companies in which the retirement fund is invested. The strategy has some early successes, as KeyCorp and Qualcomm⁷⁹ succumb to political pressure.⁸⁰

January 2, 2013: Responding to ProPublica's publication of Crossroads GPS' application for tax-exempt status, Campaign Legal Center and Democracy 21 tell the IRS, "Crossroads GPS has no business being treated as a 'social welfare' organization and the IRS should deny its application for tax-exempt status as a section 501(c)(4) organization."⁸¹

January 3, 2013: Once again, Representative Chris Van Hollen re-introduces the DISCLOSE Act in the House of Representatives.⁸² The legislation, H.R. 148, has yet to get a hearing in any of the House Committees to which it's been referred.⁸³

January 15, 2013: A senior staff member at the Securities and Exchange Commission outlines new guidelines for closer scrutiny of section 501(c) and 527 groups.⁸⁴

⁷⁶ Kim Barker, "Karl Rove's Dark Money Group Promised IRS It Would Spend 'Limited' Money on Elections," ProPublica. Retrieved on June 12, 2013. Available at: <http://www.propublica.org/article/what-karl-roves-dark-money-nonprofit-told-the-irs> (December 14, 2012).

⁷⁷ Dylan Matthews, "Wyden and Murkowski have a bill to fight super PACs. Does it go far enough?," *The Washington Post*. Retrieved on June 17, 2013. Available at: <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/04/27/wyden-and-murkowski-have-a-bill-to-fight-super-pacs-does-it-go-far-enough/> (April 27, 2013).

⁷⁸ U.S. Senator Lisa Murkowski et al., "Murkowski and Wyden Unveil Bipartisan Campaign Finance Disclosure Blueprint," Office of Senator Lisa Murkowski. Retrieved on June 17, 2013. Available at: http://www.murkowski.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=bd00b05-1d7d-4c0b-a88f-9dd70f7de479 (December 27, 2012).

⁷⁹ Nicholas Confessore, "Qualcomm Reveals Its Donations to Tax-Exempt Groups," *The New York Times*. Retrieved on June 12, 2013. Available at: <http://cityroom.blogs.nytimes.com/2013/02/22/qualcomm-agrees-to-reveal-donations-to-tax-exempt-groups/> (February 22, 2013).

⁸⁰ Lachlan Markay, "A Chilling Effect," *Washington Free Beacon*. Retrieved on June 12, 2013. Available at: <http://freebeacon.com/a-chilling-effect/> (January 29, 2013).

⁸¹ J. Gerald Hebert and Fred Wertheimer, "Watchdog Groups Again Call on IRS to Deny Tax-Exempt Status to Karl Rove's Crossroads GPS," Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2013/01/IRS-LETTER-CROSSROADS-GPS-FINAL-1-2-13.pdf> (January 2, 2013), p. 3.

⁸² U.S. Representative Chris Van Hollen, "Van Hollen Reintroduces DISCLOSE Act," Office of U.S. Representative Chris Van Hollen. Retrieved on June 17, 2013. Available at: <http://vanhollen.house.gov/news/documentsingle.aspx?DocumentID=316296> (January 3, 2013).

⁸³ Bill Summary & Status 113th Congress (2013-2014) H.R. 148 All Congressional Actions," The Library of Congress. Retrieved on June 17, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/D?d113:1:./temp/~bd2MxK:@@/X/home/LegislativeData.php> (January 3, 2013).

January 16, 2013: Citing ProPublica reports, Campaign Legal Center and Democracy 21 write to the IRS to request an investigation of American Tradition Partnership’s 501(c)(4) status.⁸⁵

January 17, 2013: Saying *Citizens United* “poses a direct threat to our democracy,” 19 Democratic Representatives submit a letter to the House Committee on the Judiciary requesting “a hearing on [proposed] Constitutional remedies to *Citizens United*.”⁸⁶

February – March 2013: A new FCC rule requires TV stations to place information about all their ad-buys from political media agencies on a public file, which promptly results in “tens of thousands of dollars” being stolen from the advertisers by online thieves who obtained this bank account information from the publicly disclosed information.⁸⁷

February 19, 2013: At a campaign stop, Representative Ed Markey (D-MA), then-special-election candidate for U.S. Senate, compares the *Citizens United* ruling to the 1857 pro-slavery ruling in *Dred Scott v. Sanford*, saying “The *Dred Scott* decision had to be repealed; we have to repeal *Citizens United*.”⁸⁸

February 28, 2013: Leading Democrats, including House Minority Leader Nancy Pelosi (D-CA), respond to a Government Accountability Office report, which discusses the FCC’s role in enforcing FEC sponsorship identification requirements for political ads under its purview. Representative Anna Eshoo (D-CA), Ranking Democrat in the House Communications and Technology Subcommittee, quipped: “Where power once originated from the general electorate, that balance has shifted in favor of the enormously wealthy, who can now hide their identity and their political expenditures. It’s time for the FCC to play a crucial role in bringing greater transparency to America’s electoral system by requiring sponsors of political ads to disclose their true identity, not just their ambiguously-named Super PAC.”⁸⁹

March 12, 2013: At a Senate Commerce, Science, and Transportation Committee hearing, Senator Bill Nelson (D-FL) urges the FCC to force advertisers to disclose their donors in TV ads,

⁸⁴ Memorandum from Majority Staff, “The SEC and Political Speech,” U.S. House of Representatives Committee on Oversight and Government Reform. Retrieved on July 24, 2013. Available at: <http://oversight.house.gov/wp-content/uploads/2013/07/OGR-Memo-The-SEC-and-Political-Speech.pdf> (July 22, 2013), p. 2.

⁸⁵ J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Call on IRS to Investigate American Tradition Partnership; Cite Its Reported Submission of Apparent False Information to the IRS Regarding Its Application for Tax-exempt Status,” Democracy 21. Retrieved on June 13, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2013/01/IRS-LETTER-WESTERN-TRADITION-PARTNERSHIP-1-15-13.pdf> (January 16, 2013).

⁸⁶ U.S. Representative Donna F. Edwards et al., “Letter to House Committee on the Judiciary Chairman Robert Goodlatte and Ranking Member John Conyers,” Congress of the United States. Retrieved on June 26, 2013. Available at: <http://big.assets.huffingtonpost.com/Letter.pdf> (January 17, 2013), p. 1.

⁸⁷ Gregg Skall and James Kahl, “Online Political Files Lead To Online Thefts,” TVNewsCheck. Retrieved on June 12, 2013. Available at: <http://www.tvnewscheck.com/article/66100/online-political-files-lead-to-online-thefts> (March 12, 2013).

⁸⁸ Aaron Blake, “Rep. Ed Markey compares Citizens United to Dred Scott case,” *The Washington Post*. Retrieved on June 26, 2013. Available at: <http://www.washingtonpost.com/blogs/post-politics/wp/2013/02/21/rep-ed-markey-compares-citizens-united-to-dred-scott-case/> (February 21, 2013).

⁸⁹ Representatives Nancy Pelosi, Henry Waxman, and Anna Eshoo, “Pelosi, Waxman, Eshoo Call on FCC to Increase Campaign Ad Disclosure,” U.S. House Committee on Energy and Commerce. Retrieved on June 12, 2013. Available at: <http://democrats.energycommerce.house.gov/index.php?q=news/pelosi-waxman-eshoo-call-on-fcc-to-increase-campaign-ad-disclosure> (February 28, 2013).

saying “as the result of a Supreme Court decision, we have been beset upon in the political sphere with an avalanche of undisclosed, unlimited money.”⁹⁰

March 20, 2013: In a *New York Times* op-ed, New York State Comptroller Thomas DiNapoli and NYC Public Advocate Bill de Blasio write an open letter to the SEC calling for immediate action on the proposed rule requiring publicly traded companies to disclose all political expenditures.⁹¹

March 30, 2013: The IRS sends out another round of “compliance check” questionnaires to 1,300 501(c) groups. The IRS states that it is focusing on “self-declared” exempt groups.⁹²

April 9, 2013: Senator Sheldon Whitehouse calls the IRS “toothless” in its regulation of 501(c)(4) organizations. Whitehouse claims that organizations are making a “mockery” of campaign finance law and that “big donors like to use these non-profit entities to launder campaign spending and hide their identities.”⁹³

April 23, 2013: Months after announcing a blueprint for their proposal, Senators Wyden and Murkowski formally introduce their campaign finance “reform” proposal, known as the Follow the Money Act (S. 791). In a joint *Politico* op-ed touting their legislation, the Senators explain that “the bill seeks to end the pass-the-buck, bureaucratic foot-dragging on the part of the FEC and the Internal Revenue Service, which have failed to take responsibility to enforce the law when it comes to bogus nonprofits that injected massive amounts of dark money into the 2012 elections.”⁹⁴ One of the provisions of the bill would grant the IRS the power to effectively impose a death sentence on tax-exempt organizations that make an error of \$25,000 or more on their campaign finance reports.⁹⁵ The bill has yet to receive a hearing in the Senate Finance Committee.⁹⁶

May 6, 2013: Speaking at a Yale University conference, Ezra Klein, a *Washington Post* columnist and MSNBC contributor,⁹⁷ acknowledges that the media (himself included)

⁹⁰ Brendan Sasso, “Sen. Nelson urges FCC to unmask political ad donors,” *The Hill*. Retrieved on June 12, 2013. Available at: <http://thehill.com/blogs/hillicon-valley/technology/287761-sen-nelson-urges-fcc-to-unmask-political-ad-donors> (March 12, 2013).

⁹¹ Thomas P. DiNapoli and Bill de Blasio, “Companies: Show Us the Money,” *The New York Times*. Retrieved on June 13, 2013. Available at: <http://www.nytimes.com/2013/03/21/opinion/companies-show-us-the-money.html?ref=campaignfinance&r=1&> (March 20, 2013).

⁹² Peter Overby, “IRS To ‘Social Welfare’ Groups: Show Me The Political Ad Money,” NPR. Retrieved on June 12, 2013. Available at: <http://www.npr.org/blogs/itsallpolitics/2013/03/30/175761558/irs-to-social-welfare-groups-show-me-the-political-ad-money> (March 30, 2013).

⁹³ Tarini Parti and Byron Tau, “DOJ, IRS tight-lipped on campaign finance probes,” *Politico*. Retrieved on June 12, 2013. Available at: <http://www.politico.com/story/2013/04/doj-irs-tight-lipped-on-campaign-finance-probes-89816.html#ixzz2VwH2X1i2> (April 9, 2013).

⁹⁴ U.S. Senators Ron Wyden and Lisa Murkowski, “Shedding light on anonymous ads,” *Politico*. Retrieved on June 17, 2013. Available at: <http://www.politico.com/story/2013/05/bill-tests-truth-in-campaign-ads-91224.html> (May 12, 2013), p. 2.

⁹⁵ David Keating and Eric Wang, “A First Look: The Wyden-Murkowski ‘Follow the Money Act of 2013,’” Center for Competitive Politics. Retrieved on June 17, 2013. Available at: <http://www.campaignfreedom.org/wp-content/uploads/2013/04/2013-04-25-Wyden-Murkowski-Final.pdf> (April 25, 2013), p. 1.

⁹⁶ Bill Summary & Status 113th Congress (2013-2014) S. 791 All Congressional Actions,” The Library of Congress. Retrieved on June 17, 2013. Available at: <http://thomas.loc.gov/cgi-bin/bdquery/D?d113:1:./temp/~bdXMkT:@@X/home/LegislativeData.php> (April 23, 2013).

⁹⁷ “Ezra Klein - Columnist” *The Washington Post*. Retrieved on June 12, 2013. Available at: http://www.washingtonpost.com/2011/02/24/ABifXwI_page.html (2013).

dramatically overstated the supposed threat of Super PAC spending in advance of the 2012 election: “It’s hard to look at the 2012 election, with its record fundraising and the flood of super PACs and all the rest of it, and come away really persuaded that money was a decisive player. And yet the way we talked about money in the run-up to the 2012 election, we really suggested it would be a decisive player. In fact, we suggested, quite often, that it wouldn’t just decide the election, but that it would imperil democracy itself. So I think we have some explaining to do.”⁹⁸

May 13, 2013: ProPublica reports that it originally received nine confidential pending applications from IRS agents in December 2012, six of which it published. None of the confidential applications are from liberal organizations.⁹⁹

May 15, 2013: In a speech on the Senate floor, Senator Whitehouse warns Congress that the IRS targeting of conservative-oriented groups is “not the only IRS scandal,” stating that the Service is also “allowing big shadowy forces to meddle in elections anonymously through front groups that file false statements.” The same day, Senator Whitehouse indicates that he plans to re-introduce a version of the DISCLOSE Act later in 2013.¹⁰⁰

May 15, 2013: Pointing to partisan abuses in the IRS, House Republicans voice strong opposition to the proposed SEC rule during a three-hour hearing with new SEC Chairwoman Mary Jo White. “We’re giving you an opportunity today to make a clear and emphatic statement that you will refuse to be bullied by these outside radical groups that are trying to exploit the corporate disclosure process,” Representative Scott Garrett (R-NJ) said to Chairwoman White.¹⁰¹

June 1, 2013: Nick Nyhart, President and CEO of Public Campaign, tells ABC news “there are legitimate questions to be asked about political groups that are hiding behind a 501(c)(4) status. It’s unfortunate a few bad apples at the IRS will make it harder for those questions to be asked without claims of bias.”¹⁰²

June 3, 2013: Democracy 21 and Campaign Legal Center send a letter to the House Ways and Means Committee arguing “the problem is not that the IRS regulations are too restrictive but that they are far too lax,” and requesting that the Committee not focus narrowly on the targeting of conservative groups.¹⁰³

⁹⁸ Ezra Klein, “We got way too excited over money in the 2012 elections,” *The Washington Post*. Retrieved on June 12, 2013. Available at: <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/05/06/we-got-way-too-excited-over-money-in-the-2012-elections/> (May 6, 2013).

⁹⁹ Kim Barker and Justin Elliott, “IRS Office That Targeted Tea Party Also Disclosed Confidential Docs From Conservative Groups,” ProPublica. Retrieved on June 13, 2013. Available at: <http://www.propublica.org/article/irs-office-that-targeted-tea-party-also-disclosed-confidential-docs> (May 13, 2013).

¹⁰⁰ Paul Blumenthal, “Sheldon Whitehouse: IRS Tea Party Targeting ‘Not The Only IRS Scandal,’” *The Huffington Post*. Retrieved on June 17, 2013. Available at: http://www.huffingtonpost.com/2013/05/15/sheldon-whitehouse-irs_n_3281252.html (May 15, 2013).

¹⁰¹ Dina ElBoghdady, “SEC pressed to abandon corporate political spending disclosures petition,” *The Washington Post*. Retrieved on June 12, 2013. Available at: http://www.washingtonpost.com/business/economy/sec-pressed-to-abandon-corporate-political-spending-disclosures-petition/2013/05/16/d76b782e-be55-11e2-97d4-a479289a31f9_story.html (May 16, 2013).

¹⁰² Gregory Wallace, “Conservative sites tie IRS controversy to liberal group,” CNN. Retrieved on June 12, 2013. Available at: <http://politicsticker.blogs.cnn.com/2013/06/01/conservative-sites-tie-irs-controversy-to-liberal-group/> (June 1, 2013).

¹⁰³ J. Gerald Hebert and Fred Wertheimer, “Watchdog Groups Urge Ways and Means Committee to Investigate Failure of IRS to Enforce the Tax Laws Against 501(c)(4) Abusers,” Democracy 21. Retrieved on June 12, 2013. Available at: <http://www.democracy21.org/wp-content/uploads/2013/06/Letter-to-House-Ways-and-Means-Committee.pdf> (June 3, 2013), p.

June 4, 2013: Congress’s investigation into the IRS’s handling of 501(c)(4) groups prompts some lawmakers to use the opportunity to introduce new rules and regulations for such organizations. Representative Richard Neal (D-MA) states that political activity by 501(c)(4) organizations “is even more egregious than some of the actions of the IRS.”¹⁰⁴

June 5, 2013: New York Attorney General Eric Schneiderman officially adopts new disclosure rules “requiring nonprofit groups, including 501(c)(4) ‘social welfare’ organizations...to report the percentage of their expenditures that go to federal, state and local electioneering.”¹⁰⁵ Schneiderman vows that “‘Dark Money’ groups that proliferated since *Citizens United* will be brought into the light.”¹⁰⁶

June 18, 2013: Sen. Jon Tester, (D-MT) introduces a Constitutional amendment to reverse *Citizens United*,¹⁰⁷ as requested by Montana Initiative No. 166 (see November 6, 2012 entry above). The amendment declares “the rights protected by this Constitution to be the rights of natural persons,” and grants Congress the power to impose upon corporate entities whatever regulations it may “deem reasonable.”¹⁰⁸

July 31, 2013: The *National Review Online* reports that the House Ways and Means Committee has discovered e-mail correspondence between the IRS’s Lois Lerner and the FEC general counsel’s office, which seem to detail illicit sharing of tax information about the American Future Fund, a 501(c)(4) nonprofit organization. The FEC’s general counsel’s office allegedly colluded with Lois Lerner to sway a FEC vote on whether or not to prosecute the American Future Fund, asking for and receiving confidential information in 2008 and 2009.¹⁰⁹

The Center for Competitive Politics is a nonpartisan, nonprofit 501(c)(3) organization focused on promoting and protecting the First Amendment political rights of speech, assembly, and petition. It was founded in 2005 by Bradley A. Smith, a former Chairman of the Federal Election Commission. In addition to scholarly and educational work, the Center is actively involved in targeted litigation against unconstitutional laws at both the state and federal levels.

¹⁰⁴ Lauren French, “IRS scandal could change rules for nonprofits,” *Politico*. Retrieved on June 18, 2013. Available at: <http://www.politico.com/story/2013/06/irs-scandal-nonprofits-92865.html> (June 17, 2013), p. 2.

¹⁰⁵ Attorney General Eric T. Schneiderman, “Charity Disclosure Regulations,” New York State Office of the Attorney General. Retrieved on June 24, 2013. Available at: <http://www.ag.ny.gov/charity-disclosure-regulations> (June 5, 2013).

¹⁰⁶ Attorney General Eric T. Schneiderman, “A.G. Schneiderman Adopts New Disclosure Requirements For Nonprofits That Engage In Electioneering,” New York State Office of the Attorney General. Retrieved on June 12, 2013. Available at: <http://ag.ny.gov/press-release/ag-schneiderman-adopts-new-disclosure-requirements-nonprofits-engage-electioneering> (June 5, 2013).

¹⁰⁷ “TESTER’S CONSTITUTIONAL AMENDMENT: CORPORATIONS ARE NOT ‘PEOPLE’,” Office of U.S. Senator Jon Tester. Retrieved on June 26, 2013. Available at: http://www.testersenate.gov/?p=press_release&id=2970 (June 18, 2013).

¹⁰⁸ U.S. Senator Jon Tester et al., “S.J. Res. 18,” Government Printing Office. Retrieved on June 26, 2013. Available at: <http://www.gpo.gov/fdsys/pkg/BILLS-113sjres18is/pdf/BILLS-113sjres18is.pdf> (June 18, 2013), p. 2.

¹⁰⁹ Eliana Johnson, “E-mails Suggest Collusion Between FEC, IRS to Target Conservative Groups,” *National Review Online*. Retrieved on August 5, 2013. Available at: <http://nationalreview.com/corner/354801/e-mails-suggest-collusion-between-fec-irs-target-conservative-groups-eliana-johnson> (July 31, 2013).