



May 2, 2014

SEC

Comments in Support of Petition File Nr. 4-637-2

The New Progressive Alliance at <http://newprogs.org/> supports the petition filed by Citizens for Responsibility and Ethics in Washington (“CREW”) and urges the SEC to impose a uniform disclosure regime on all public companies.

Despite an unprecedented level of public support for this cause – at least 700,000 signatures – and the inclusion of this matter on the SEC 2013 regulatory agenda, the SEC has apparently now abandoned consideration of regulations that would require public companies to disclose political activity spending. Unfortunately, however, the need for and public interest in these regulations have increased exponentially.

The SEC clearly has the authority to make reasonable disclosure requirements on political spending by public companies. Section 14(a) of the Securities Act of 1934 specifies disclosure obligations to which all public companies are subject. At the same time, Congress accorded the SEC discretion to promulgate “such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.” Section 14(a), 15 U.S.C. 78n(a).

Even more than Congress, courts have recognized the SEC’s “broad discretionary powers to promulgate . . . rules requiring disclosure of information beyond that specifically required by statute.” *Natural Res. Defense Council, Inc. v. SEC*, 606 F.2d 1031, 1050 (D.C. Cir. 1979). With respect to the disclosure provisions of Section 14(a), the SEC is considered to have “even greater discretion to require disclosure by rulemaking.” *Id.*

And yet though the Supreme Court has consistently acknowledged the validity and utility of corporate disclosure requirements, the SEC has yet to propose regulations that would require public companies to disclose their political spending. This is the weak link in making the system work. The evidence of this is detailed in CREW’s details of the following.

- increasing shareholder actions asking for disclosure so they can properly guide the company’s actions
- difference between claims of transparency and real dealings
- dramatic and continuing increases in corporate political spending
- increasing contributions to dark money groups

- a lack of uniformity and clarity in corporate disclosure policies to the point that some companies' policies are written in ways likely to mislead or confuse investors and shareholders who are not well versed in campaign finance matters or to keep some contributions secret. The irony is this is done while promoting an appearance of transparency.

The solution? As CREW suggested, the solution is “a clearly delineated, unambiguous, and uniform set of disclosure requirements for all public companies.” We are just talking about disclosure, not regulation. There is an increasing lack of confidence in both shareholders and citizens in the rule of law in this country. The SEC could help repair this through simple effective disclosure requirements.

Sincerely,

Ed and Harriet Griffith
New Progressive Alliance

